STVDIA ISLAMICA

COLLEGERVNT

A. L. VDOVITCH — A. M. TVRKI

XLVIII

A. MIQUEL. — « *Pour une relecture du Coran* »: *autour de la racine* nwm 5

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G.-P. MAISONNEUVE-LAROSE

PARIS

MCMLXXVIII

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« POUR UNE RELECTURE DU CORAN » : AUTOUR DE LA RACINE *nwm*

M. Arkoun a parfaitement indiqué les voies, pour aujourd'hui, d'une lecture ou d'une relecture du Coran [1]. Je n'y reviendrai pas et relèverai seulement, avec et après lui, les dangers que l'étude des modalités de la parole risque ici de rencontrer. Si l'on cherche les raisons historiques de la Révélation, on glisse alors, par un historicisme impénitent, à une vision purement occasionnaliste, voire opportuniste, du Verbe, alors même que celui-ci est le propos gratuit et libre de Dieu. Si l'on s'en tient aux données purement littéraires, évaluation du choix des mots ou de leur association, étude phonétique ou rythmique et, de façon générale, recherche des fondements d'une esthétique, on se heurte à l'être même du texte, qui est, ou est tenu pour, sacré et donc irréductible à toute analyse humaine. Ainsi que l'a très justement dit M. Arkoun, la critique historique ou littéraire ne peut prétendre regarder ce texte comme n'importe quel autre. Que l'œil ou l'esprit qui l'interrogent appartiennent à un musulman, à un adepte d'une autre religion, à un sceptique ou même à un athée, le Coran ne laisse

(1) « Comment lire le Coran », introd. à la traduction du Coran par Kasimirski, Paris (Garnier-Flammarion), 1970 ; « Lecture de la Fâtiḥa, in *Mélanges d'islamologie A. Abel*, I, Brill 1974 ; *La Pensée arabe*, Paris (P.U.F.), 1975, p. 5 sq.

pas de se présenter, en bloc, comme investi, par la conscience musulmane, d'un témoignage ontologique : il est ce que Dieu a voulu qu'il fût, le texte qui fonde et définit l'Islam. Face à l'être même du texte qui est sacré ou tenu pour tel, peu importe, la critique historique ou littéraire ne peut donc déboucher, au pire, que sur le sacrilège et l'impuissance, sur l'*i'ǧāz* ; au mieux, que sur l'incompréhension de critique à public, sur l'incommunicabilité du message. Force est donc, de décret divin ou en raison des impératifs imposés par la conscience musulmane, de nous interroger non pas sur le pourquoi et le comment, qui relèvent du mystère *(ġayb)* de Dieu, mais sur le quoi, sur le texte lui-même, conçu pour les hommes et proposé à leur méditation, dans l'ordre même où l'a reçu l'*iǧmā'* de la communauté (1).

S'agissant du sommeil, le premier des textes faisant intervenir la racine *nwm* est le suivant (II, 255) : *Allāhu, lā ilāha illā huwa, l-ḥayyu l-qayyūmu, lā ta'ẖuḏuhu sinatun wa lā nawmun, lahu mā fī s-samāwāti wa mā fī l-arḍi; man ḏā llaḏī yašfa'u 'indahu illā bi'iḏnihi; ya'lamu mā bayna aydīhim wa mā ẖalfahum wa lā yuḥīṭūna bišay'in min 'ilmihi illā bimā šā'a; wasi'a kursiyyuhu s-samāwāti wa l-arḍa wa lā ya'ûduhu ḥifẓuhumā; wa huwa l-'aliyyu l-'aẓīmu.* Ce verset célèbre, dit du Trône, vient après le rappel de certains points de l'histoire prophétique et l'annonce du dernier Jour, et avant l'évocation de quelques aspects de la vraie religion. Distingué, au sein du contexte, par ses thèmes, le verset l'est aussi par la conscience et la pratique musulmanes, sa récitation intervenant souvent dans la prière (2). Mais, ainsi distingué, le verset forme un

(1) Ce qui implique le choix d'un *tafsīr* « classique », reflétant largement ce consensus, hors des considérations trop marquées par la controverse ou l'intervention de personnalités de premier plan. J'ai pris le commentaire d'al-Ḫāzin, mort en 741/1340 *(Lubāb at-ta'wīl fī ma'ānī t-tanzīl)*, Beyrouth (Dār al-ma'rifa), 4 vol., s.d., comportant, en marge, les *Madārik at-tanzīl wa ḥaqā'iq at-ta'wīl*, d'Abū l-Barakāt an-Nasafī, mort en 710/1310. Tous deux sont rangés par Blachère (*Introduction au Coran*, Paris, G. P. Maisonneuve - Besson et Chantemerle, 1959, p. 211 et n. 292) dans la catégorie des ouvrages « maniables », de très grande diffusion, compilateurs et finalement « d'esprit très ordinaire ». Les références seront données sous le titre de *Tafsīr*.

(2) Sur la place attribuée à ce verset par la tradition musulmane, cf. *Tafsīr*, I, 183.

tout, et c'est par référence à ce texte total, non par le recours pur et simple au dictionnaire ou à la compétence instinctive du locuteur, que nous devons nous interroger sur le sommeil.

Le verset se compose de neuf propositions (je prends ce terme au double sens énonciatif et syntaxique) :

1. *Allāhu (lā ilāha illā huwa) l-ḥayyu l-qayyūmu.*
2. *Lā ta'ḫuḏuhu sinatun wa lā nawmun.*
3. *Lahu mā fī s-samāwāti wa mā fī l-arḍi.*
4. *Man ḏā llaḏī yašfa'u 'indahu illā bi'iḏnihi?*
5. *Ya'lamu mā bayna aydīhim wa mā ḫalfahum.*
6. *Wa lā yuḥīṭūna bišay' in min 'ilmihi illā bimā šā' a.*
7. *Wasi'a kursiyyuhu s-samāwāti wa l-arḍa.*
8. *Wa lā ya'ûduhu ḥifẓuhumā.*
9. *Wa huwa l-'aliyyu l-'aẓīmu.*

Dieu occupe, on le voit, les propositions 1-3, 5 et 7-9, l'homme les propositions 4 et 6. En outre, les groupes 1-3 et 7-9 sont construits selon un emboîtement rigoureux, une symétrie parfaite par rapport à la proposition centrale (5). A la proposition 3 correspond la proposition 7, avec reprise du thème de la terre et des cieux. 2 et 8 se répondent également : même construction, même suite négation-verbe-sujet. Situation homologue, enfin, entre 1 et 9 : phrase nominale, avec sujet *(Allāh* ou *huwa)* et une paire d'attributs ; l'homologie se renforce encore du fait que, par le jeu du syntagme de rappel de l'unicité divine *(lā ilāha illā huwa)*, le pronom *huwa* apparaît chaque fois devant l'énoncé des attributs.

Avant d'aller plus loin, constatons que le trait le plus sensible de Dieu est ainsi son omniprésence. Terre et ciel non seulement relèvent de son ordre, mais ils sont, aussi loin qu'il est possible de l'imaginer, la mesure même de son être tout entier *(wasi'a)*. L'insistance sur cette omni présence, que symbolise la répétition du couple terre-ciel, est rendue sensible par la distribution du verset : englobant (1-3 et 7-9) et central (5), Dieu est donc partout, et de fait, dans la place faite à l'homme (4 et 6), il est encore là, puisque aussi bien cet homme n'est que sa créature et ne serait rien sans lui.

La construction du verset nous autorise d'autres conclusions :

il s'ouvre et se referme, par des morphèmes de même type (adjectifs), sur les attributs de Dieu, qui le résument, si l'on peut s'exprimer ainsi : l'être au début, la sublimité à la fin (1). De 1 à 3, la définition de l'être divin permet d'inférer, par déduction, ses autres caractéristiques : étant le vivant absolu (1), Dieu ne peut être assujetti au sommeil (2) et, par conséquent, étant la permanence même, il est aussi l'universelle présence (3). De 7 à 9, la démarche est inverse et procède par induction, des attributs à l'essence : si Dieu est universelle présence (7), s'il peut tout tenir sous sa loi, c'est parce qu'il est exempt de toute faiblesse (8) ; et s'il est ainsi la puissance absolue, c'est parce qu'il est l'Être Suprême (9). Les deux démarches, de principe méthodologique inverse, sont évidemment complémentaires : toutes deux ont pour fin, on l'a dit, d'établir et d'affirmer deux aspects de l'être de Dieu, vie et sublimité. Dans le même esprit, elles couvrent, par des voies différentes, deux dimensions complémentaires du monde : la seconde traite de l'espace, tandis que la première lie cet espace au temps : c'est parce que Dieu est perpétuellement conscient et en acte qu'il peut régner partout.

Les propositions centrales (4-6) sont construites avec une non moins grande rigueur. De part et d'autre de 5, dédiée à l'omniscience divine, 4 et 6, traitant de l'homme par rapport à Dieu, opèrent toutes deux sur le mode négatif : interrogation valant négation en 4, négation proprement dite en 6, le parallélisme des deux constructions étant évident : négation-verbe-complément-particule d'exception *(illā)*-complément (ici, introduit chaque fois par *bi*). L'ensemble du groupe est en outre construit, non plus sur le mode de l'enchaînement, déductif ou inductif, comme en 1-3 et en 7-9, mais selon une démarche contrastive, à l'intérieur même du groupe et dans ses relations avec le contexte. Les propositions 4 et 6 opposent en effet

(1) Blachère prend, dans la proposition 9, l'adjectif *ʿaẓīm*, couplé avec *ʿaliyy* (très haut), au sens premier : l'immense. M. Hamidullah, Kasimirski et Savary, en lui donnant son sens dérivé (*dūna l-ʿiẓami llaḏī huwa min nuʿūti l-aǧsām* : *Tafsīr*, I, 185, *i.f.*), conservent l'isotopie du couple : le Très Haut et le Très Grand (M.H.), le Très Haut, le Grand (K.), le Dieu grand, le Dieu très haut (S.).

clairement les limites humaines à Celui qui ne les connaît pas (3, 5 et 7).

Mais si la proposition 4 s'oppose à la proposition 3, et si, comme on l'a vu, 3 est liée à 2 et à 1 par l'enchaînement logique qu'on a dit, il suit de là que 4 s'oppose à l'ensemble 1-3 tout entier ; le même raisonnement opposera 6 à tout le groupe 7-9. Mais comme, d'autre part, les deux propositions 4 et 6 sont liées l'une à l'autre en tant que syntaxiquement homologues et toutes deux sémantiquement opposées à la même proposition 5, il s'ensuit que les propositions 4 et 6 doivent être opposées, en bloc, à l'ensemble des autres versets.

Par une voie différente, on dirait que, puisque 4, par exemple, s'oppose à 3, mais que 3 correspond, comme on l'a dit plus haut, à 7, 4 s'oppose par conséquent à 7. Mais comme, en outre, par le jeu de l'enchaînement logique, 3 est liée à 2 et à 1, lesquelles correspondent à 8 et à 9, il s'ensuit que 4 s'oppose non seulement au groupe 1-3, mais tout aussi bien, au groupe 7-9. La même démarche ferait opposer 6 à 1-3 aussi bien qu'à 7-9. Au total, le groupe 4 et 6 s'oppose, en bloc, à l'ensemble 1-3 et 7-9, à quoi il faut évidemment rattacher 5, liée à 4 et à 6, qui l'encadrent, par une relation commune d'opposition.

L'étude de la construction du verset n'a pas pour but que de confirmer, preuves à l'appui, ce que la première lecture, un sentiment instinctif ou la conviction du Musulman en prière font ressortir depuis toujours. Cette étude nous fonde à envelopper le sommeil de la proposition 2 dans l'ensemble des réseaux de significations du verset. Le sommeil dont il est question ici n'est pas le sommeil du dictionnaire ; il est celui du verset 255 de la deuxième sourate du Coran.

Mais nous ne sommes pas encore au bout de l'analyse formelle. On a vu plus haut que la proposition 2 répondait à la proposition 8 : toutes deux, a-t-on dit, sont en effet de même modèle syntaxique. Encore faut-il remarquer, en l'occurrence, que ce modèle formel est aussi un signe. Ce sont là en effet les deux seules propositions qui traitent de Dieu, si j'ose dire, négativement. Mais on se doute que le moins n'a rien à voir avec Dieu. Au contraire, les relations mises en évidence dans le verset autorisent à penser que les propositions 2 et 8 sont tout

aussi positives que 1, 3, 5, 7 et 9. Dieu étant l'infini, il ne peut absolument pas être de l'ordre du moins. Mais si c'est cela que disent les propositions 2 et 8, si elles sont positives à l'instar des autres, il faut donc, mathématiquement dirais-je, qu'à côté de *lā* intervienne une autre négation, afin que les deux négations s'annulent. Ce second élément négatif, en 2, ne peut être que *sina* et *nawm* (1), puisque le verbe *aḫaḏa* n'a pas, quant à lui, de connotation négative. En 8, *ḥifẓ* étant positif, la négation ne peut être cherchée que dans le seul mot restant, le verbe cette fois : *āda*. La privation d'être étant ainsi niée dans l'une et l'autre proposition, c'est bien de l'être absolument positif que Dieu est investi.

Mais si la privation d'être impliquée par *sina*, *nawm* et *āda* est refusée à Dieu, il s'ensuit, compte tenu de la construction du verset, qu'elle doit être au contraire considérée comme le lot de l'homme. De fait, dans les propositions où il est question de lui, en 4 et en 6, l'usage de la négation est tout différent. Elle n'est pas, ici, contredite à plein, mais atténuée par *illā* : n'était la clémence du Créateur contenue dans ce *illā*, l'homme serait tout entier voué à la négation pure, car son caractère ontologique, c'est d'être, comme toutes les autres créatures, justement privé d'être. Vivant, il ne l'est pas par définition, comme Dieu ; il ne l'est qu'un peu, par l'effet de la grâce divine.

La relation de l'homme à Dieu, cette relation de contraste et de dépendance tout ensemble, est soulignée, il faut y revenir, par la construction des propositions négatives du verset (2, 4, 6 et 8) : construction qui ajoute encore au faisceau des relations internes du texte. Car, de même que Dieu, sans la puissance et la miséricorde duquel l'homme ne serait rien, intervient dans les propositions qui traitent de l'homme (4 et 6), de même, en 2 et 8, qui traitent de Dieu, l'homme intervient, comme l'antithèse du Seigneur : il suffit, pour le voir apparaître, de supprimer la négation *lā*. La relation de l'homme à Dieu est donc une des clés du texte, puisqu'on la trouve, claire ou cachée, dans cinq propositions sur neuf (il faut ajouter, à 2, 4,

(1) Explicitement rangé, par *Tafsīr*, I, 183, *i.f.*, dans la catégorie de la déficience *(naqṣ)*, de l'infortune *(āfa)*.

6 et 8, la proposition 5 qui associe très fortement, elle aussi, dans l'ordre du savoir cette fois, Dieu et l'homme). Cette relation nous autorise une fois de plus, que dis-je? elle nous force à replacer cette marque de l'homme qu'est le sommeil dans l'ensemble d'un contexte voué à Dieu et à sa relation avec la créature.

Les traits caractéristiques de Dieu sont l'unicité, l'être, l'omniprésence, la toute-puissance, l'omniscience et la sublimité. Unicité : au Dieu un (1), opposons l'homme éparpillé, reproduit, multiple et interchangeable. Être : Dieu est la vie absolue, l'être qui vit de lui-même (1) ; en face, l'homme est, par nature, la créature limitée et dépendante ; sa vie est une demi-vie, une vie suspendue : suspendue au Dieu qui la donne et la reprend. Omniprésence : éternellement vivant, Dieu est partout dans le monde (7) et peut y exercer partout sa surveillance et son droit de propriété (3, 8) ; l'homme éparpillé et multiple qu'on a dit est, par là-même, un être circonscrit, limité à une infime partie du monde. Toute-puissance : maître absolu, Dieu accorde ou refuse comme il lui plaît ; en face, l'homme ne peut se définir que par la frustration et l'échec. Omniscience : tandis que l'homme ne connaît que fort peu de Dieu (6), Lui sait tout, dans le temps éternel, des origines au Jugement Dernier (1). Sublimité enfin : pour toutes les raisons évoquées, Dieu est le Très Haut (9), et la condition humaine, à l'inverse, est toute d'infériorité.

De cette condition banale, précaire, parcellaire, frustrée, ignorante et inférieure, le sommeil est le symbole. Il l'est d'autant plus que c'est à travers lui que nous trouvons appliqués à l'homme, non pas des verbes comme en 4 et 6, mais des noms ; non pas des actes qui supposent, si limitée soit-elle,

(1) L'expression *mā ḫalfahum* peut s'entendre en effet comme renvoyant soit à l'histoire passée, aux signes déjà donnés par Dieu (l'arrière, l'amont de l'histoire), soit aux mauvaises actions de l'homme, qu'il essaiera de cacher derrière lui, au Jugement Dernier (ou : pour prix desquelles il recevra alors, dans son dos, l'arrêt qui le condamne). L'expression opposée, *mā bayna 'aydīhim*, peut s'entendre, à l'inverse, comme l'histoire à venir ou les bonnes actions, dont l'homme recevra ouvertement, devant lui, le prix. Sur ces interprétations, cf. *Tafsīr*, I, 184 (et Blachère, commentaire à *Coran*, II, 256/255, XXXVI, 45, LXXXIV, 7-12).

une part de volonté propre, mais des états, et des états contraignants, qui ont prise sur nous *(aḫaḍa)*. États qui trahissent la faiblesse essentielle de l'homme, sans doute, mais il ne s'agit pas, en l'espèce, d'une tare gratuitement imposée par Dieu. Si nous nous référons à un autre état, défini par la proposition 8 (1), si évidemment liée, on l'a dit, à 2, nous pouvons déduire que, par rapport à Dieu, à qui le maintien et la surveillance de l'univers entier n'imposent aucune fatigue (2), l'homme, lui, ne peut tenir ce rôle, dans l'infime part du monde qui est la sienne, sans succomber sous l'effort : d'où l'idée du sommeil réparateur, de la faiblesse réparant la faiblesse, dans le cercle inchangé d'un être ontologiquement défini par elle.

Mais cette réparation a pour prix une suspension du temps vécu. L'homme est une créature qui, contrairement à l'Éternel, ne vit que pour un temps et, pour ce temps-là, ne vit qu'à demi, face au Dieu toujours éveillé, debout et en acte *(qayyūm)* (3). Le sommeil est donc, par la nécessité de compensation d'une faiblesse essentielle, perte de temps et perte de la conscience : non pas à demi, comme le laisserait entendre *sina* (4), mais, plus encore, à plus forte raison *(wa)*, totalement, par le vrai sommeil *(nawm)*. Par voie de conséquence, la perte de la conscience conduit à renoncer au savoir total, à l'activité absolue, qui sont ceux de l'Être qui voit, entend, sait, surveille et observe tout (5).

Rassemblons ces données, et concluons. Le sommeil est le prix payé pour la part de vie qui nous est impartie, la force

(1) Le verbe ne doit pas faire illusion. C'est d'un état qu'il s'agit ici encore ; le complément *(-hu)* est en réalité le sujet de cet état.

(2) *āda, ya'ûdu* : faire ployer (Blachère), coûter de la peine, de l'effort (Hamidullah, Kasimirski, Savary) : cf. *Tafsīr*, I, 185.

(3) Sur ces deux aspects de *qayyūm (al-qā'im ʿalā kulli šay'in* et *al-qā'im ad-dā'im bilā zawāli l-wuǧūd)*, cf. *Tafsīr*, I, 183.

(4) La nécessaire gradation entre *sina* et *nawm* impose en effet de retenir ce sens parmi les trois que peut revêtir la racine *wsn* : assoupissement, premier sommeil, profond sommeil. C'est le premier qui est traditionnellement retenu ici (cf. l'analyse de *Tafsīr*, I, 183 *i.f.*; Savary, croyant à une simple redondance, ne distingue pas entre les deux mots).

(5) Cf. les *ṣifāt* données à Dieu par le Coran et la tradition : *baṣīr, samīʿ, ḫabīr, ḥāfiẓ, raqīb*. L'équation sommeil = perte de conscience est clairement indiquée dans *Tafsīr*, I, 183 *i.f.*

contraignante où Dieu nous assujettit pour nous permettre de ne pas mourir tout de suite. Relevant d'une faiblesse ontologique incarnée dans la finitude spatiale et temporelle, le sommeil caractérise et symbolise plus spécialement cette faiblesse dans l'ordre de la seconde de ces deux dimensions. Demi-vie ou demi-mort, avant la mort il est la mort même, où le temps s'abolit dans la conscience disparue.

*
* *

VII, 95-96 :

'a fa'amina 'ahlu l-qurä 'an ya'tiyahum ba'sunā bayātan wa hum na'imūna,

'a wa 'amina 'ahlu l-qurä 'an ya'tiyahum ba'sunā ḍuḥan wa hum yal'abūna,

Les versets 92-100 forment un tout très homogène, sur le thème de l'édification à tirer de la ruine des cités *(qurä)*, non désignées nommément (1), qui refusèrent de croire aux envoyés et aux preuves de Dieu. L'attitude des cités oscille, vis-à-vis du message divin, entre le refus (par l'accusation d'imposture) et l'oubli, né du souci de jouissance et de la futilité des hommes.

Reprenant cette dernière idée, les versets 95-96 se détachent fortement à leur tour, au centre de la séquence, par une construction rigoureusement identique et presque superposable de l'un à l'autre, la fin seule divergeant : *bayātan/ḍuḥan, na'imūna/yal'abūna* (2). Ainsi, face à une situation identique, celle du châtiment divin se préparant à frapper des cités endormies (au propre et au figuré, on va le voir) dans une sécurité trompeuse, le texte établit une dichotomie très rigoureuse : à la nuit le sommeil, au jour les plaisirs et les jeux.

Le sommeil, perte de la conscience, est évidemment le moment idéal pour frapper, d'autant qu'il s'y ajoute l'ombre propice de la nuit. Mais Dieu, nous dit le texte, frappe tout

(1) Il s'agit donc là d'un thème général, suivant et précédant des applications historiques particulières, où les noms propres réapparaissent (cf. *Tafsīr*, II, 115 *i.f.*).

(2) Autre variante, minime, à l'initiale : *fa/wa*.

aussi bien à la pleine clarté du jour (1). La raison en est évidente : c'est que, dormant ou non, ces gens sont des inconscients, dont le crime est de prolonger, dans l'état de veille, la léthargie nocturne, de ne pas restituer au jour cette capacité de réflexion qui, peut-être, les eût sauvés.

La seule activité des impies est donc une fausse activité, puisqu'elle participe de cet état d'inconscience que le sommeil est seul à assumer chez un être normal. Mais à son tour, cette pseudo-activité rejaillit sur le sommeil : définie comme coupable, elle fait du sommeil, normalement réparation de fatigues nées d'activités courantes et licites, la restauration de forces destinées au seul plaisir. Au total, la dichotomie instaurée par le texte est une fausse dichotomie : jour et nuit, sommeil et prétendue veille, c'est tout un, le plaisir en l'espèce, illusoire comme eux. Et la seule dichotomie valable, réelle et qui d'ailleurs se réalisera dans les faits, c'est celle qui oppose cette illusion même, de jour et de nuit, cette illusion que le texte rend par l'ironie corrosive de *amina*, au châtiment prévu par celui qui est, dans tous les sens du terme, la Conscience.

* * *

XXV, 49 : le verset s'inscrit dans un ensemble (47-56) très cohérent, après une séquence relative au sort des peuples impies (37-46) et avant une autre consacrée, elle, à des encouragements adressés au Prophète (57-61). Les versets 47-56 développent deux thèmes : celui de la lumière et de l'ombre (47-48), celui du vent et de l'eau, ce dernier en deux temps : exposition du thème (50-51), puis développement (valeur significative de l'action divine à partir de l'eau (eau douce répandue : 52-54 (2) ; eau salée contenue : 55), action tout entière menée en faveur de l'être créé de l'eau : l'homme (56)).

(1) Clarté du ciel (Blachère), clarté du jour (Kasimirski), pendant le jour (Savary), au jour montant (Hamidullah) ; cf. *Tafsīr*, II, *loc. cit.* : *ya'nī nahāran li'anna ḍ-ḍuḥā ṣadru n-nahār.*

(2) Sur le statut et la place des deux versets 53-54, cf. Blachère, *Coran*, II, p. 310, note.

Le verset 49 où il est question du sommeil est rigoureusement intercalé entre les deux groupes, de deux versets chacun, consacrés à la stricte exposition des deux thèmes signalés (47-48 et 50-51) :

(47) *'a lam tara 'ilä rabbika kayfa madda ẓ-ẓilla wa law šā'a laǧa'alahu sākinan, ṯumma ǧa'alnā š-šamsa 'alayhi dalīlan*
(48) *ṯumma qabaḍnāhu 'ilaynā qabḍan yasīran*
(49) *wa huwa llaḏī ǧa'ala lakumu l-layla libāsan wa n-nawma subātan wa ǧa'ala n-nahāra nušūran.*
(50) *wa huwa llaḏī 'arsala r-riyāḥa bušrä bayna yaday raḥmatihi wa 'anzalnā mina s-samā'i mā'an ṭahūran*
(51) *li-nuḥyiya bihi baldatan maytan wa nusqiyahu mimmā ḫalaqnā 'an'āman wa 'anāsiyya kaṯīran.*

La création visée par les bienfaits de Dieu est signalée en fin de séquence : bêtes *(an'ām)* et hommes *(anāsiyy)*. Mais si l'homme est désigné ainsi comme partageant, avec les autres créatures, les bienfaits de Dieu, en 49, c'est lui seul *(kum)* qui est mentionné par l'évocation du sommeil. Cette indication d'un statut particulier demandera à être précisée dans la suite de l'analyse.

Les versets 47-48 traitent de l'ombre et de la lumière. Ou plutôt, ils traitent, essentiellement, de l'ombre. Le monde aurait pu être réduit à elle seule, et ce n'est que par un effet de la grâce divine que cette ombre a été suspendue par la lumière, solaire en l'espèce, dont le double rôle est d'arracher les ténèbres de la terre, et donc de donner la vie (*nušūr*, 49), et de les arracher régulièrement *(dalīlan)*. Soulignons au passage la menace contenue dans le verset 48 : si Dieu ramène à lui cette ombre avec facilité, il peut tout aussi bien, à tout moment qu'il voudra, la laisser envahir la terre.

L'ombre dont il est question est évidemment la nuit du verset 49, et cette nuit appelle le sommeil : situation de coexistence que le texte de 49 rend par la juxtaposition nuit-sommeil, renforcée encore par le fait que nuit et sommeil relèvent tous deux du même verbe *ǧa'ala*, tandis que *nušūr* est isolé de ce couple par la reprise d'un *ǧa'ala* qui lui est réservé en propre. Nous pouvons donc étendre à l'ensemble

ombre-nuit-sommeil (la nuit, par sa relation et avec l'ombre et avec le sommeil, assurant l'unité du triptyque) tout ce qui a été dit de l'ombre seule. Le sommeil, lié à l'ombre de la nuit, loin du soleil et du jour, est donc une sorte de mort, et de mort régulière, périodique. Mais il ne tient qu'à Dieu que, de périodique, le sommeil, comme l'ombre, devienne éternel : la menace de l'ombre définitive sur le monde, c'est, passant de la virtualité au réel, la condition même de chacun d'entre nous : cette mort suspendue qu'est le sommeil n'est que la préfiguration de notre mort définitive ; arrachés, par l'effet de la grâce divine, aux ténèbres de la mort, comme jadis la terre, nous retournons à elles, périodiquement, par le sommeil, comme la terre à la nuit, et — contrairement, cette fois, à la terre (du moins pour ce qui touche à son histoire jusqu'à aujourd'hui) — nous retournerons à l'ombre pour toujours.

Sortis de la nuit périodique, nous participons de la vie *(nuḥyiya)* de la terre et des bêtes, vie suscitée et incarnée par l'eau, elle-même annoncée par les vents. Mais au delà de cette vie végétative qu'il partage avec la création, l'homme, avec chaque jour qui commence, connaît une autre vie, en propre celle-là. C'est le *nušūr* : le lever, le mouvement, l'activité sans doute (1), mais aussi, au delà et de façon beaucoup plus imagée : s'ouvrir (pour les feuilles des arbres), se déployer, reverdir, revivre pour tout dire, ce que Blachère traduit fort justement par « résurrection ». Ce renouveau préfigure évidemment l'autre, celui du dernier jour : tout comme chaque jour nous console de la nuit d'où nous émergeons, de même la Résurrection nous fera oublier à l'instant les affres et les ténèbres de la longue nuit du tombeau. Chaque jour qui se lève pour nous n'est donc pas seulement, comme pour les autres créatures, le jour d'une vie, c'est l'annonce de la vie future et éternelle. Et c'est pourquoi l'homme est seul à figurer au verset 49.

Le sommeil est donc à la fois vie et mort, vie suspendue par le fait de notre appartenance à l'ombre universelle, mort suspendue aussi parce que laissant place à la vie du jour,

(1) Voir les traductions de Savary, Kasimirski et Hamidullah, et l'interprétation de *Tafsīr*, III, 351.

ici-bas et plus tard, après notre fin terrestre. Le verset 49 participe ainsi de toutes les connotations qu'il tire des thèmes des autres versets. Mais il leur ajoute aussi des notations propres au sommeil. Au *nušūr*, il oppose, on l'a dit, en un couple très strict, le sommeil et la nuit. Mais qu'est-ce que le *nušūr*? La résurrection, bien sûr, et sommeil-nuit s'y opposent dans l'esprit du passage tout entier. Mais le *nušūr*, dans le contexte propre cette fois au verset, c'est la résurrection pour l'activité de chaque jour, d'où les traductions possibles par se lever, se mouvoir, agir. Dès lors, nuit et sommeil doivent être confrontés au *nušūr* également en ce sens-là. Et c'est bien ce qui se produit : *subāt*, la somnolence ou le sommeil, c'est aussi le repos, forcé (du chômage par exemple) ou prescrit par Dieu (*subāt-sabt*, sabbat) : et de fait, commentateurs et traducteurs prennent, ici, le mot en ce sens (1). Quant à la nuit, si elle est bien le voile qui nous dérobe à la lumière, elle est aussi le vêtement (2), donc la protection, le réconfort. Nuit et sommeil sont ainsi associés, au verset 49, pour évoquer l'idée d'une réparation des forces nécessaires aux activités vitales du jour.

Ce thème, à son tour, ouvre sur un autre. Sommeil, nuit et *nušūr* sont présentés, à l'évidence, comme cadeaux de Dieu, le *nušūr* devant se sublimer lui-même, à la fin des temps, dans ce cadeau suprême qu'est la vie éternelle. Mais encore faut-il qu'à cette institution *(ǧa'ala)* divine, nous répondions par un accord de notre volonté. L'homme évoqué ici est bien l'homme-type, l'homme normal, s'adonnant à une activité normale (puisque digne de déboucher sur l'éternité) et jouissant, pour ce faire, du repos du sommeil. Mais si le sommeil est ainsi présenté comme saint, sacré, la menace impliquée par ce caractère ne doit pas être sous-estimée. Ce que Dieu donne, on l'a dit, il peut toujours le reprendre. A plus forte raison lorsque, comme ici, un contrat est en jeu. Alors que, sur le plan ontologique et universel, l'initiative est à Dieu, ici, bien évidemment

(1) Cf. *Tafsīr, loc. cit.*

(2) Cf. *Tafsīr, loc. cit.*, et traductions : vêtement (Hamidullah), manteau (Savary et Kasimirski) ; plus nuancé, et réservant les connotations indiquées ici : voile (Blachère).

par un effet de sa grâce, elle est laissée à l'homme : il ne tient qu'à lui de transformer toute sa vie, active ou suspendue, en quelque chose de coupable, qui connaîtra cette mort absolue qui s'appelle, ici bas et dans l'au-delà, la séparation d'avec Dieu. Le sommeil n'est donc pas qu'un des modes de notre vie biologique, il est, intégré à tout notre vécu, la participation à toute une morale de ce même vécu.

XXX, 16/17-26/27 :

(16/17) *Fasubḥāna llāhi ḥīna tumsūna wa ḥīna tuṣbiḥūn(a)*

(17/18) *wa lahu l-ḥamdu fī s-samāwāti wa l-arḍi wa ʿašiyyan wa ḥīna tuẓhirūn(a)*

(18/19) *yuḫriǧu l-ḥayya mina l-mayyiti wa yuḫriǧu l-mayyita mina l-ḥayyi wa yuḥyī l-arḍa baʿda mawtihā wa kaḏālika tuḫraǧūn(a)*

(19/20) *wa min āyātihi ʾan ḫalaqakum min turābin ṯumma ʾiḏā ʾantum bašarun tantaširūn (a)*

(20/21) *wa min āyātihi ʾan ḫalaqa lakum min anfusikum azwāǧan litaskunū ʾilayhā wa ǧaʿala baynakum mawaddatan wa raḥmatan; ʾinna fī ḏālika laʾāyātin liqawmin yatafakkarūn(a)*

(21/22) *wa min āyātihi ḫalqu s-samāwāti wa l-arḍi wa ḫtilāfu ʾalsinatikum wa alwānikum; ʾinna fī ḏālika laʾāyātin lilʿālimīn(a)*

(22/23) *wa min āyātihi manāmukum bil-layli wa n-nahāri wa btiǧāʾukum min faḍlihi; ʾinna fī ḏālika laʾāyātin liqawmin yasmaʿūn(a)*

(23/24) *wa min āyātihi yurīkumu l-barqa ḫawfan wa ṭamaʿan wa yunazzilu mina s-samāʾi māʾan fayuḥyī bihi l-arḍa baʿda mawtihā; ʾinna fī ḏālika laʾāyātin liqawmin yaʿqilūn (a)*

(24/25) *wa min āyātihi ʾan taqūma s-samāʾu wa l-arḍu biʾamrihi ṯumma ʾiḏā daʿākum daʿwatan mina l-ʾarḍi ʾiḏā ʾantum taḫruǧūn (a)*

(25/26) *wa lahu man fī s-samāwāti wa l-ʾarḍi, kullun lahu qānitūn(a)*

(26/27) *wa huwa llaḏī yabdaʾu l-ḫalqa ṯumma yuʿīduhu wa huwa ʾahwanu ʿalayhi wa lahu l-maṯalu lʾaʿlä fī s-samāwāti wa l-arḍi wa huwa l-ʿazīzu l-ḥakīm (u).*

L'ensemble de ces onze versets est regroupé, par R. Blachère, sous la dénomination « Puissance et bienfaisance divines » : nous reviendrons tout à l'heure sur cet intitulé. Constatons, pour l'instant, qu'il s'agit ici de Dieu à l'œuvre, à la fois dans la création originelle et dans la création continuée. Les onze versets font suite à 1/2-15/16, centrés sur l'attitude des hommes, souvent incrédules, à la fois dans le passé, le présent et le futur eschatologique (sous la forme du châtiment). A partir du verset 27/28, c'est une autre séquence qui s'ouvre, avec opposition de l'attitude impie et de la religion du ḥanîf, et reprise du thème des incrédules. L'organisation phonique souligne la distribution de ces trois ensembles : à partir de 27/28, croisement régulier des rimes *-ūn* et *-īn*, les deux ensembles précédents fonctionnant, eux, sur le principe de l'embrassement de groupes de versets en *-ūn* par des versets d'une autre rime, mais avec des différences notables entre l'ensemble 1/2-15/16 et l'ensemble 16/17-26/27 : le premier ensemble est constitué de trois groupes de versets en *-ūn* (2/3 et 3/4 ; 5/6 à 11/12 ; 13/14 à 15/16) avec, intercalés, 1/2 *(-ūm)*, 4/5 *(-īm)* et 12/13 *(-īn)*, l'ensemble se terminant, « ouvert », sur la rime principale en *-ūn* ; à l'inverse, l'ensemble 16/17-26/27 s'ouvre sur cette même rime et aligne deux groupes de versets en *-ūn* (16/17-20/21 ; 22/23-25/26) séparés par une rime en *-īn* (21/22), et le tout clos par une rime en *-īm* (26/27). A noter que, si nous considérons, globalement, tout le début de cette sourate, la cohérence en est particulièrement nette : aux versets à rimes croisées (27/28 sq.), qui reprennent l'ensemble des thèmes, répond, cette fois, un seul ensemble (de 1/2 à 26/27), fait de quatre groupes de versets en *-ūn* (2/3 et 3/4 ; 5/6-11/12 ; 13/14-20/21 ; 22/23-25/26) séparés par des rimes différentes (1/2 : *-ūm* ; 4/5 : *-īm* ; 12/13 : *-īn* ; 21/22 : *-īn* ; 26/27 : *-īm*) : l'organisation phonique souligne donc la relation entre le premier ensemble (1/2-15/16) et le second (16/17-26/27), comme pour confirmer l'autre relation, thématique cette fois, à savoir l'incrédulité des hommes (1/2-15/16) inextricablement liée, comme une réponse impie, aux bienfaits de Dieu (16/17-26/27). Il y aura lieu de revenir plus tard sur cette organisation d'ensemble de tout le début de la sourate.

On ne pourra évidemment prétendre à épuiser tout le sens du passage ni à mettre au clair tous les réseaux de relations qu'il recouvre. Constatons du moins, tout d'abord, que Dieu est, une fois de plus, sous la forme de son nom même, ou d'un pronom, ou comme sujet, présent dans tous les versets. « Puissance et bienfaisance divines », dit Blachère. Je dirais plutôt : signes de Dieu. Le mot de *āyāt*, qui apparaît dix fois, signe, si j'ose dire, six versets (19 à 24) sur onze, mais, par une série de dérivations, on peut étendre cette notion à l'ensemble du passage : le thème de la création à partir de la poussière (19) est annoncé par celui, plus général, de la vie née de la mort (18), qui est donc, lui aussi, un exemple de *āyāt*, ou plutôt, à la vérité, la même *āya* dite sous une autre forme. En 21, le thème de la création des cieux et de la terre implique leur propriété pour Celui qui les fit : thème exprimé en 25 ; la propriété divine de la terre et du ciel est donc la reprise, sous une expression différente, de la *āya* du verset 21. Enfin, les deux *āyāt* de 19 et 21 (création de l'homme et de l'univers) réapparaissent, couplées cette fois et renvoyant à la création entière *(ḫalq)*, en 26. Par redite, expansion ou addition, on voit donc que les *āyāt* sont présentes dans l'ensemble du passage : seuls, les versets 16 et 17, qui donnent, avec la louange, la définition de l'attitude refusée par les incrédules (avant notre passage) et de l'attitude recommandée au croyant (après notre passage) restent isolés. Encore faut-il bien voir deux choses : 16 et 17 sont très fortement unis au thème des *āyāt* : celles-ci ne sont rien d'autre que la raison même de cette louange, et c'est pourquoi, en fin de passage, juste avant le dernier verset, le thème réapparaîtra, en 25, sous la forme dérivée de l'obéissance. Le passage est ainsi conçu comme encadrant, sous la relation du « parce que », puis du « donc », l'œuvre significative de Dieu par la louange. Mais il y a peut-être, entre 16-17 et la suite du texte, des interférences plus subtiles : le verset 25, que nous avons rattaché au thème des *āyāt*, est repris, presque mot pour mot (réserve faite de la substitution de *ḥamd* à *mann*) au verset 17 : la construction syntaxique aide donc considérablement à rapprocher un thème relevant des *āyāt* (la propriété) à la louange, et dès lors, c'est à une louange marquée par cette

idée des *āyāt* que nous avons affaire, aussi, en 16. On dira que cette analyse ne tient pas, eu égard à l'antériorité de 16 par rapport à 17, et de 17 par rapport à 25. Mais c'est faire fi d'un phénomène essentiel pour la lecture du texte : celui-ci n'est pas découvert, il est *su* à chaque lecture, connu déjà globalement, et la mémoire aide, à n'en pas douter, les réfractions de sens, depuis l'aval vers l'amont du texte (1) : un peu, toutes proportions gardées, comme l'amateur d'un morceau de musique qui attend déjà, sous l'ébauche de quelques notes, l'exposition parfaite et totale du thème qu'il sait venir un peu plus loin.

Dieu, souverain, suprême et omniprésent, apparaît comme le maître du temps, de l'espace et de la vie. Le temps, d'abord (16, 17 et 22). L'éternité de Dieu, qui est une de ses définitions, transcende une série d'oppositions classiques : soir/matin, nuit/jour, mais aussi, de façon plus subtile : nuit commençante *(ʿašiyy)*/jour finissant *(ṭumsūna)*, jour commençant *(ṭuṣbiḥūna)*/ jour finissant *(ṭumsûna)*, franges du jour *(ṭuṣbiḥūna, ṭumsūna)*/plein jour *(ṭuẓhirūna)*, qui se subsument en : ombre ou lumière pleines (jour, nuit, midi)/ombre ou lumière intermédiaires (fin du jour, commencement de la nuit). L'espace ensuite : l'omniprésence de Dieu dans sa création se traduit par les couples : terre/ciel (17, 21, 24, 25, 26), ciel et eau/terre (23), terre (comme ensemble)/terre (comme sol) (19, 23, 24). Les deux ensembles sont à leur tour repris, et reliés l'un à l'autre, dans un ensemble commun qui est celui de la vie et de la mort. Celui-ci est envisagé selon deux angles différents : cosmogonique (de la mort à la vie, à l'origine : verbes *ḫalaqa*, *bada'a (al-ḫalq)* et *qāma* : 21, 26), et cyclique (de la mort à la vie : verbes *aḥyä* et *aʿāda* : 18, 23, 26 ; de la vie à la mort : 18 et *baʿda mawtihā* (mort de l'hiver ou de la sécheresse : 18, 23)).

Après Dieu et le monde, l'homme, évidemment inclus dans les ensembles du temps, de l'espace et de la vie. Cet homme relève de l'espace de la création : le même verbe *ḫaraǧa* est employé pour la création en général et pour lui (18), et, en 23,

(1) La référence au texte global du Coran est pratiquée couramment par l'exégèse : un exemple cité *infra*, p. 25 (note).

l'existence de l'homme est clairement montrée comme rivée à son milieu. Le temps, la vie et la mort appellent plus de nuances. Il faut bien voir d'abord que ce texte, comme tout le message coranique, s'adresse à la fois à l'individu et à l'espèce. Le premier est contenu dans le pronom *-kum* (conçu comme référant non pas seulement à un ensemble, mais à un vrai pluriel, à une juxtaposition d'individus), et aussi dans le *kullun* de 25. Mais cet individu connaît une double expansion : du côté de la femme (on va revenir sur ce point) et du côté de l'espèce, répandue *(tantaširūna)* sur la terre, dans la diversité des langues et des races (19 et 21).

Cela posé, l'homme, en tant qu'espèce, participe du temps cyclique : liée à l'eau du ciel (23), l'humanité, comme la terre, poursuit sa vie faite de morts qui en jalonnent la route : après la mort de la terre et de certaines classes d'âge, la terre renaît et l'humanité se renouvelle par ses enfants ; le symbolisme météorologique, au delà des images latentes de la pluie après la sécheresse, ou du printemps après la mort hivernale de la terre, n'est là que pour dire, de façon imagée, que « l'humanité est faite de plus de morts que de vivants ». Si maintenant nous regardons vers le temps cosmogonique, nous savons que ce temps est évidemment celui de la création de l'espèce (1), mais il reste que, pour chacun d'entre nous cette fois, la cosmogonie se renouvelle : chaque naissance est création du monde pour l'homme qui y apparaît : ce que rend parfaitement, dans toute l'ambiguïté du *-kum*, le verset 19.

Déjà perce l'indication d'un statut particulier de l'homme ; relevant de la création en tant qu'espèce, il est aussi créature et, par le fait même qu'il peut comprendre l'interpellation que Dieu lui adresse sur sa naissance en tant qu'individu, plus que cela : créature consciente. Quatre traits relatifs au traitement du temps, et donc à la conscience de la vie, nous confirment ce statut particulier de l'homme dans la création. 1) D'abord, ce temps vécu, ce temps qui s'écoule, pour lui comme pour la création, il est le seul à le *vivre*, à en faire une durée : en 16 et 17,

(1) *Tafsīr*, III, 431, réfère explicitement à Adam.

c'est par des verbes à la seconde personne du pluriel, des verbes dont les hommes sont le sujet, que ce temps s'exprime. 2) Ensuite, le temps cyclique du verset 23 est vécu, à travers la même symbolique météorologique, dans l'espoir et la crainte conjugués ; mais cet espoir et cette crainte ne sont pas que ceux, matériels et immédiats, de la verdure ou de la foudre : pour savoir ce qu'apporte la pluie, pour savoir le péril de l'éclair, il faut être homme, conscient donc, et transcrire le tout en termes de vie ou de mort *pensées* (et non pas, comme pour l'animal, et au mieux, ressenties de façon instinctive) : le temps cyclique (de la nature ou de l'espèce) est observé et vécu par un homme « qui sait qu'il va mourir ». Le temps cyclique est ainsi, pour l'individu, la préfiguration de la mort personnelle. 3) Troisième privilège de l'homme : le verset 20 nous dit que Dieu a créé pour nous des épouses « issues de nous ». L'allusion à la création d'Ève (1) est évidente (*Coran*, IV, 1 : *ḫalaqakum min nafsin wāḥidatin wa ḫalaqa minhā zawǧahā*), de même que l'indication du rôle de la femme dans la multiplication de l'espèce en général, comme en 19, ou pour le premier couple (*Coran, loc. cit.: wa baṯṯa minhumā riǧālan kaṯīran wa nisā'an*), mais les versets 19-20 semblent bien renvoyer, outre la création première du couple originel dans le temps cosmogonique, à un temps cosmogonique pour chacun d'entre nous, comme je le disais un peu plus haut : ce que confirme, pour chacun d'entre nous encore, ce miracle d'une femme tirée de nous et qui nous est destinée, les pluriels *anfusikum* et *'azwāǧan* confirmant qu'il ne s'agit plus ici du couple originel, mais de toute l'humanité vivante d'*aujourd'hui*. Pour le propos qui nous occupe ici, ce n'est pas seulement le fait en soi qui est important : c'est la conscience que l'on a de lui. Or, l'expression du verset 20 ne peut être prise, c'est l'évidence, au même sens que celui qu'on lui donnerait pour le couple originel : nous savons bien que ce n'est pas de notre corps que sont tirées ces femmes qui nous sont destinées : la seule femme née de nous est la fille, non

(1) Cf. *Tafsīr, loc. cit.*

l'épouse, dont il est question ici (1). L'expression *min 'anfusikum* ne laisse donc pas d'être obscure, à moins — et c'est évidemment ce qu'il faut comprendre — que le croyant, par un acte volontaire *(niyya)* répondant au choix fait par Dieu, pour lui, de telle femme, ne revive, transposé dans sa conscience, le miracle du couple originel, la femme corporellement issue de l'homme devenant la femme issue du désir : désir de la vie (qui nous renverrait au *ṭama'* du verset 23), désir de l'amour, de la mansuétude et de la paix (2), en même temps qu'action de grâces au Créateur et souvenir de son amour pour le premier couple, dans une cosmogonie renouvelée. 4) Enfin, dernière indication d'un statut particulier de l'homme : il est un temps qui lui appartient en propre, celui de l'eschatologie, chaque fois exprimé par le verbe *ḫaraǧa* (18 et 24) ; à noter que ce temps, d'une part, relève, comme les autres, de Dieu seul : c'est au passif que les hommes sont évoqués en 18, et, en 24, cette « sortie » qu'ils effectuent est en fait un « état » : c'est Dieu qui a l'initiative *(da'ākum, da'watan* (3)*)*, comme le confirmera le *qānitūn* de 25 ; à remarquer aussi que l'homme est bien le seul être à apparaître dans ce futur eschatologique ; enfin, que ce temps est, à volonté, soit une phase, la dernière, du temps cyclique (les hommes sortiront de la mort comme la terre, jusque là, l'aura fait périodiquement : 18), soit une phase, la première — en fait l'unique, parce qu'éternelle — d'un temps cosmologique nouveau (l'homme sortira de la terre, c'est-à-dire du néant (24), comme jadis la terre et les cieux au début de la création : 21) ; de ce temps où se fondent le cosmique et le cyclique, de ce temps aboli dans l'éternité, l'homme sera le témoin et le seul.

Le sommeil, ainsi qu'en XXV, 49, est désigné comme un privilège de l'homme (en 22). La première classification oppose ce sommeil à l'activité diurne, exprimée sous la forme de la

(1) Il faudrait évoquer, pour compléter cette typologie, la mère (dont nous sommes nés) et la sœur (de notre sang, mais pas née de nous).

(2) La *sakīna* se profile peut-être en effet derrière *taskunū 'ilayhā* (Blachère : « que vous vous reposiez auprès d'elles ») ; cf. *Tafsīr, loc. cit.*, qui glose en : *litamīlū lil-'azwāǧi wa ta'lafūhunna.*

(3) Blachère traduit par : « une fois », soit : dès le premier appel.

recherche de la faveur divine, des biens de ce monde ; les termes antithétiques de nuit et de repos sont sous-entendus mais parfaitement clairs (et par opposition à l'activité diurne et dans le contexte général du verset, le « signe » de Dieu consistant dans une claire répartition des fonctions des deux parties de la journée). On est donc ramené à l'alternance déjà connue : jour-activité-veille/nuit-sommeil-repos.

Deux problèmes, pourtant, se posent : ce n'est pas, en réalité, cette opposition qui nous est dite, mais celle qui place, d'un côté l'activité (sans précision de temps) et le sommeil, celui-ci de nuit *et de jour*. Une première interprétation consisterait à prendre le couple nuit-jour comme référant, très généralement, par leur somme, à l'ensemble du temps vécu par l'homme : temps cyclique, évidemment, le sens étant : toute la vie de l'homme (symbolisée par la succession nuit-jour) est partagée entre sommeil et activité, entre la mort et la résurrection, comme pour la terre *(baʿda mawtihā)*, comme aussi, on l'a dit, pour l'espèce ; par le sommeil, l'homme vit lui aussi un temps cyclique qui, jusque là, nous était présenté comme médité par lui, mais extérieur à lui. L'autre interprétation, évidemment plus conforme à la simple lecture, consiste à isoler le jour de la nuit, et donc à poser l'existence d'un sommeil de jour. L'association des deux mots jure avec tout ce qui a été dit jusqu'ici : le sommeil est l'affaire de la nuit et le jour est fait pour l'activité (1). Le phénomène est d'autant plus étrange que, contrairement à la nuit qui nous est présentée sous son nom général ou celui de moments intermédiaires, le jour accuse, lui, en dehors de ces moments qu'il partage avec la nuit, un relief hors de pair grâce au midi du verset 17. Qu'est-ce donc que ce sommeil qui vient à bout d'un jour pourtant aussi triomphant?

(1) Ainsi le comprend *Tafsīr*, III, 431, selon une « coupe » différente : parmi les signes de Dieu, il y a, [d'une part], votre sommeil pendant la nuit et, [d'autre part], le jour et la recherche d'un peu de Sa faveur. Cette interprétation est retenue, à l'encontre des autres traducteurs, par Savary, et an-Nasafī, en marge du *Tafsīr (loc. cit.)*, la donne en effet comme la plus courante, eu égard aux associations nuit-sommeil et jour-activité, traditionnelles dans le Coran, et à la construction stylistique dite *laff*. An-Nasafī signale pourtant une autre interprétation, qui renverrait les deux termes de sommeil et d'activité indifféremment au jour et à la nuit.

Ce peut être évidemment un supplément de repos, en rapport avec une activité particulièrement intense ou un milieu extérieur particulièrement éprouvant (renvoi dans ce cas, peut-être, à *tuẓhirūna* du verset 17 ; cf. trad. Blachère : « quand vous êtes à la méridienne »). Ce peut être, tout aussi bien, dans le contexte général de la toute-puissance divine, une contrainte qui s'impose à l'homme *malgré* le jour et vient lui rappeler, au beau milieu de ses activités de veille, qu'il ne peut être éternellement vivant. Le sommeil, qui est une demi-mort, est ainsi, à la fois, le repos et, particulièrement accusée par la présence du jour, cette mort qui fait partie de notre condition. Image de la mort cyclique, d'abord : tout comme les morts périodiques de la terre, le sommeil est retour au néant, suivi, comme pour la terre, de résurrections régulières. Rappel du temps cosmogonique ensuite : par le sommeil, nous revenons au néant originel, au *turāb* de 19, dont Dieu nous avait tirés. Annonce, enfin, du temps eschatologique : le sommeil est la préfiguration de la mort que Dieu nous imposera *(yuḫriǧu l-mayyita mina l-ḥayyi)*, avant de nous en tirer pour la Résurrection *(yuḫriǧu l-ḥayya mina l-mayyiti, tuḫrağūna, taḫruǧūna)*.

Un autre problème est celui que pose le verbe *yasmaʿūna* de la fin du verset 22. Non pas dans son sens, qui est clair : entendre ce qu'on vous dit, d'où : comprendre (cf. « entendement »). Mais plutôt dans sa relation avec le reste du verset. Bien évidemment, *yasmaʿūna* est à mettre sur le même plan que les trois autres verbes *(yatafakkarūna, ʿālimīn, yaʿqilūna)* qui expriment l'activité de l'intelligence méditant les *āyāt* divines ; *yasmaʿūna*, pourtant, est le seul verbe à exprimer cette activité sous une forme sensible, par le recours à un sens, l'ouïe. Arrêtons-nous un instant sur ce point : les autres versets, en l'espèce (20, 21, 23), sont conçus comme proposant à l'homme des spectacles à méditer, mais le sens sollicité, la vue en l'occurrence *(yurīkum)*, n'est que le moyen de fournir la matière de la réflexion, la préparation de cette réflexion, et non cette réflexion elle-même ; il y a, chaque fois, succession, passage de la sensation à la réflexion. Avec *yasmaʿūna*, au contraire, elles sont confondues, entendre et comprendre sont tout un. Autre constatation : le mot d'« entendre » n'a pas toujours le même sens, et l'analyse

des versets où intervient, littéralement, le mot de *āyāt*, est singulièrement intéressante. En 19 et 24, il s'agit respectivement de l'histoire cosmogonique et eschatologique ; de cette histoire, l'homme ne peut se prétendre, aujourd'hui, le témoin : il ne peut la vivre par la vue, mais seulement par l'ouïe, plus exactement par l'ouï-dire ; et c'est à un « entendement » de cet ouï-dire que le croyant est convié. La succession est donc : (vous avez entendu dire telle et telle chose) → (écoutez donc ce qu'on vous dit = méditez). En 20, 21 et 23, le croyant est invité à méditer ce qu'il voit, plus exactement ce qu'on lui fait voir *(yurīkum)* et la succession est : voyez → et méditez. Que se passe-t-il en 22? Il s'agit de deux faits, sommeil et activité, proposés à la méditation du croyant. Mais qu'en est-il dans la réalité? L'activité des autres, ou la sienne propre, sont, pour l'homme, des choses qu'il voit, beaucoup plus qu'il n'en entend parler. Même chose pour le sommeil des autres. Quant au sommeil propre, c'est un état que le croyant ne perçoit pas : ni par la vue, ni par l'ouïe. Ainsi, si nous restons dans le cadre strict du verset 22, le croyant est invité à se mettre à l'écoute de phénomènes qui, ou bien relèvent de la vision, ou bien ne sont pas du tout perceptibles. Dès lors, on ne voit que trois interprétations possibles, et peut-être, du reste, confondues : 1) dans le cadre strict du verset 22, « entendre » au sens de « comprendre » : c'est un des sens en effet retenus (cf. trad. Blachère) ; mais si, comme je le disais plus haut, entendre et comprendre sont tout un, faut-il aller jusqu'à effacer complètement le premier terme dans le second (1)? 2) En fait, si on déborde le cadre strict du verset 22, on sera renvoyé, d'abord, aux *āyāt* qui font l'objet d'une « écoute », d'un ouï-dire, soit celles des versets 19 et 24 : nous ne nous étonnerons pas de constater qu'il y est question, là encore, de « sommeil » : le premier, celui du néant, et le dernier, celui qui précédera la résurrection. 3) Plus généralement enfin, au sens « d'écouter ce que l'on vous dit », le sommeil sera relié à toutes les autres *āyāt*, c'est-à-dire, en fait, comme on l'a dit, à l'ensemble du

(1) *Tafsīr*, III, 431 : *samā'a tadabburin wa 'tibārin* ; an-Nasafī répugne à effacer tout sens concret : *samā'a tadabburin bi-'ādānin wā'iya*.

passage. A la limite, cette leçon que les croyants sont invités à entendre pourra déboucher sur un autre sens du verbe : écouter, c'est non seulement méditer, mais obéir (cf. trad. Hamidullah : « ceux qui écoutent »), dont l'idée sera explicitée, par *qānitūn*, en 25.

Rassemblons maintenant toutes ces données : le sommeil, repos et contrainte, est une des *āyāt* de Dieu, qui, comme telle, appelle sa louange et le respect de sa volonté. Mais c'est une *āya* d'un caractère spécial. D'abord, c'est la seule qui traduise pour l'homme, à l'intérieur de toute la création, un statut particulier : vie et mort, terre et ciel, et même union des mâles et des femelles (sauf la réserve du statut particulier, ici encore, de la relation homme-femme) ne sont pas privilèges de l'homme : il les partage avec toute la création. Ensuite, le sommeil est symbolique de la participation de l'homme au temps sous ses trois formes cyclique, cosmogonique et eschatologique, ce dernier étant propre à la destinée humaine. Mais surtout — et ce serait là le trait majeur — il ne s'agit pas seulement, pour l'homme, de temps subi, mais de temps vécu dans la conscience, d'une destinée. Le sommeil, de ce point de vue, est déroutant parce qu'il est à la fois, dans la réalité, *perte de la conscience*, et, dans la pensée qui lui fait suite dès qu'il s'abolit, *occasion d'une prise de conscience*. Il est donc antinomie, et c'est cette antinomie que traduit, de la façon qu'on a dite, l'application, à un état inconscient, d'un verbe de sensation (le *yasmaʿūna* du verset 22). L'antinomie oppose donc la vie brute à la vie méditée, ou encore, à l'intérieur même de la condition humaine, la faiblesse mortelle à l'espoir de la vie éternelle. Mais en invitant l'homme à méditer ce phénomène majeur de sa destinée, Dieu se rappelle à lui par la même occasion : par sa vocation à l'éternité future, l'homme, créature de Dieu, est, en un sens, exemplaire (*maṯal* du verset 26), mais cette exemplarité ne s'accomplira totalement que dans l'éternité ; en attendant, à travers notre faiblesse foncière incarnée dans le sommeil, c'est une méditation sur les signes suspendus de cette exemplarité que nous sommes invités à méditer ; en attendant, c'est à Dieu seul, qui ne dort jamais, qu'appartient le *maṯal* suprême : la « représentation auguste » (Blachère), « le plus

sublime exemple » (Hamidullah), l'image de sa perfection réalisée, l'exemple de notre perfection attendue (1).

Ainsi, finalement, le sommeil nous ramène-t-il à Dieu. Ou plutôt, ce Dieu, comme nous le disions, nous ne l'avons jamais quitté. L'ensemble des versets 15-26, consacrés à l'exaltation de Dieu, est, dirions-nous, la réponse à l'incrédulité des hommes (1-15), et il ouvre, par le thème de la perfection divine du verset 26, sur l'invitation à la vraie foi (27 sq.). Le sommeil doit être vu dans ce cadre global. Il accroît le caractère monstrueux de l'incrédulité, il insiste sur la nécessité de croire, en ce qu'il rappelle à l'homme qu'il est, à l'intérieur de toute la création, le trait majeur du projet de Dieu sur sa créature privilégiée : non pas parce que l'homme est le seul être à dormir, mais parce qu'il est le seul à *savoir* qu'il dort et pourquoi il dort. Occasion suprême d'une prise de conscience, par le fait même qu'il abolit cette conscience, rappel médité de la mort d'où nous venons, et préfiguration d'une mort que nous savons devoir être vaincue, le sommeil est bien au centre de ces *āyāt* par lesquelles Dieu nous interpelle.

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XXXIX, 43/41 :

Allāhu yatawaffä l-anfusa ḥīna mawtihā wa llatī lam tamut fī manāmihā fayumsiku llatī qaḍä ʿalayhā l-mawta wa yursilu l-ʾuḫrä ilä ʾaǧalin musamman, inna fī ḏālika laʾāyātin liqawmin yatafakkarūn.

Le verset rappellerait, de ton et de facture, quelques-uns de ceux que nous venons d'étudier. N'ouvrons pas le débat sur la critique du texte, et contentons-nous de constater qu'il est, dans cette sourate XXXIX, isolé entre plusieurs versets qui, en amont, traitent des thèmes de la vérité et de l'erreur, et, en aval, de l'unicité divine à travers le thème de l'intercession.

Quel que soit le parti du traducteur pour le verbe *tawaffä* (« rappelle », pour R. Blachère, « achève », pour M. Hamidullah),

(1) Cf. *Tafsīr*, III, 432.

le sens est clair : Dieu accueille, rappelle à lui, deux sortes d'âmes : les mortes et celles qui sont en sommeil. Première constatation : le parallélisme est particulièrement net entre les deux états de sommeil et de mort ; à vrai dire, ils sont un seul et même état que sépare seulement la date retenue par Dieu pour transformer le sommeil en mort, ou : la mort suspendue en mort vraie. Mais le parallélisme joue aussi, de façon tout aussi claire quoique implicite, pour les fins dernières : si, aujourd'hui, le sommeil est préfiguration de la mort à venir, ce sommeil, puisqu'il est, nous le savons, régulièrement interrompu, est préfiguration, aussi, de l'interruption finale de la mort lors de la Résurrection. Sommeil et mort sont ainsi tous deux des états latents destinés à devenir continus (après notre mort), puis abolis (à la Résurrection). Sur ce point, le verset ne nous apprend rien de nouveau, mais il accuse le parallélisme sommeil-mort avec un relief saisissant.

Seconde constatation : Dieu nous est dit retenir l'âme morte (jusqu'à la Résurrection) et l'âme en sommeil (jusqu'au réveil, au *nušūr* dont un autre verset nous a parlé). Il s'ensuit que le sommeil, comme la mort, est un temps d'exil de l'âme hors du corps abandonné. Mais où réside le sommeil? Dans l'âme ou le corps? En d'autres termes, qui est-ce qui dort, lui ou elle? Le verset, parlant de la mort ou du sommeil, ne traite que de l'âme *(ḫīna mawtihā, lam tamut)*. La mort est une situation simple : l'âme est morte, et le corps, qui la suit (s'il se définissait par opposition à elle, il serait vivant, ce qui est absurde), est mort lui aussi. Le sommeil, comme on peut s'y attendre, est plus complexe : l'âme est dite vivante, mais en même temps connaître le sort des âmes mortes ; elle est donc dans une situation intermédiaire, celle-là même que caractérise, précisément, le sommeil *(manām)*. Le corps, lui, est vivant, puisque l'âme l'est (s'il était son principe contraire, il serait mort, situation absurde et qui ne résiste pas, de fait, à l'examen : nous savons qu'un corps endormi n'est pas mort), mais, à la différence de l'âme, qui connaît, par le sommeil, la condition de ses pareilles mortes, le corps, lui, n'est pas « rappelé » : il est toujours, comme nous le disions et comme on le sait, vivant, plus vivant, oserais-je dire, que l'âme, il ne connaît pas la

condition des corps morts. En d'autres termes, le sommeil ne change rien à la condition du corps, ou plutôt il se situe, avec l'âme, au delà de la simple condition de ce corps endormi, laquelle est *le repos*. Celui-ci fait partie du sommeil, mais il ne l'épuise pas, il est la forme corporelle d'un état de l'âme. Le verset distingue ainsi subtilement entre les deux ordres du biologique et du vivant. L'âme, qui est, comme on nous le dit *(ḥīna mawtihā, lam tamut)*, le seul principe vital, connaît évidemment le principe contraire, la mort, avec lequel, par le sommeil, elle refait périodiquement connaissance, avant de s'abolir en lui au jour fixé. Le corps, lui, ne connaît pas ces interruptions, il reste biologiquement vivant, dans la continuité, et il ne connaîtra la mort que d'un coup, à la césure finale et brutale. Ce n'est qu'à la Résurrection, implicitement évoquée (1), que les deux cycles du biologique et du vivant pourront être enfin accomplis et réalisés dans l'unité (2).

Dernier point à souligner : l'association étroite entre mort et sommeil, tous deux relevant de la liberté souveraine de l'acte divin, laisse planer une menace latente, que nous connaissons déjà (VII, 95-96). Le sommeil n'est pas seulement préfiguration de la mort, il peut en être, tout aussi bien, l'occasion : il suffit pour cela que l'âme soit non plus seulement « rappelée », mais « retenue » au domaine de la mort. Cela nous permettra, en conclusion, de préciser les rapports du biologique et du vivant : si le corps, en état de veille, se définit par l'association de la vie biologique et de l'animé (par l'âme qui y réside), s'il peut subsister, dans le repos qui est sa forme à lui de sommeil, comme simple vie biologique mais inanimée, cette dernière situation est toutefois très précaire, possible seulement dans

(1) De la façon qu'on a dite plus haut et, en tout état de cause, par tout ce que le texte coranique, dans les versets précédents, a déjà indiqué en ce sens.

(2) Les commentateurs expriment l'opposition du biologique et du vivant en supposant deux âmes à l'homme : le *rūḥ*, principe vital, qui demeure, pendant le sommeil, dans le corps, qu'il ne quittera qu'à la mort ; et le *nafs*, support de l'activité intellectuelle et sensible, qui abandonne le corps pendant le sommeil ; ʿAlī b. Abī Ṭālib parle, lui, d'un *rūḥ* abandonnant le corps en sommeil, mais lui laissant une luminescence *(šuʿāʿ)* grâce à quoi sont perçus les rêves ; voir ces commentaires, avec d'autres, dans *Tafsīr*, IV, 57.

le provisoire : que l'âme tarde à revenir, que le sommeil se prolonge, et il devient mort. Le biologique reste finalement une forme du vivant, il ne constitue pas un ordre à lui tout seul ; tout comme le repos du corps se subsume dans le sommeil (de l'âme), de même la vie organique est liée, de principe, à la vie tout court.

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LXVIII, 19 :

Faṭāfa 'alayhā ṭā'ifun min rabbika wa hum nā'imūn

Le verset fait partie d'un ensemble (17-34) appelé (Blachère, p. 147) la « parabole des maîtres du jardin ». Il évoque le châtiment, par Dieu, d'hommes incrédules et injustes, frappés à travers leur jardin (*ǧanna*, représenté par le pronom *-hā* dans notre verset).

Le texte rappelle une donnée déjà connue : la nuit et le sommeil sont l'occasion de l'action de Dieu : le Veilleur parfait surprend ceux à qui leur condition impose de dormir. Ici, il ne s'agit pas de catastrophe absolue, de mort, mais seulement de châtiment matériel, de mauvaise surprise : un jardin dévasté. On n'irait guère plus loin dans le commentaire si l'on ne se posait, tout de même, une question. Dieu pouvant frapper à tout instant, et voulant faire un exemple, mais un exemple moins sévère que pour des impies caractérisés, frappés, eux, en plein sommeil (comme ceux de VII, 95-96), pourquoi ne choisit-il pas le plein jour? Pourquoi fait-il intervenir la nuit, sœur de l'ombre et de la mort, pour un châtiment qui n'est pas, dirait-on, de l'ordre de l'ontologie, mais de la simple morale? Si ces gens sont frappés, en effet, c'est évidemment parce que le projet de récolte au jardin fait comme si Dieu n'existait pas (verset 17, trad. Blachère : « quand ils jurèrent de le cueillir au matin »), mais, surtout, parce que cette récolte s'accompagne d'injustice (ils s'étaient promis, dit le verset 24, que « nul pauvre n'entre en ce jardin », et reconnaissent, au verset 29, « avoir été injustes »). La réponse semble claire : puisque c'est en raison de leur inconscience que les hommes se comportent mal, il faut qu'ils soient frappés en état d'inconscience : à

l'inconscience morale (ou, comme on le voudra, à la conscience délibérée du mal), fondement d'une attitude, répond l'inconscience psychologique (et forcée), occasion du châtiment. Le sommeil répond donc au double souci divin de la surprise et de châtier les hommes par là où ils ont péché. Et comme pour mieux accuser l'importance de la conscience, c'est bien, finalement, au plein jour que la surprise interviendra : l'inconscience nocturne n'a pas été interrompue, c'est au matin, devant le jardin dévasté, que les yeux des hommes s'ouvriront (versets 25-27).

Le sommeil, ici, n'est donc pas, contrairement à ce qui se passe ailleurs, le signe d'une condition ontologique et de ses fins dernières : ce n'est pas lui, mais le jardin, qui interviendra plus loin, en conclusion, lorsque ces fins dernières seront évoquées (v. 33-34, trad. Blachère : « Tel est le tourment d'ici-bas, mais certes le tourment de la vie dernière est pire. Que ne le savaient-ils! En vérité, aux pieux appartiennent, auprès de leur Seigneur, les jardins de délice »). Le sommeil n'est, pas davantage, la cause matérielle de la manifestation de ladite condition : Dieu pouvait tout aussi bien dévaster le jardin en plein jour. Il est simplement, ce sommeil, l'occasion de la manifestation, dans les faits, de la puissance divine et, dans les esprits, d'une méditation sur la continuité sans faille de cette puissance.

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LXXVIII, 9 : *Wa ǧa'alnā nawmakum subātan*

Le verset, qui fait partie d'un ensemble rappelant l'action divine et ses bienfaits pour l'homme (v. 6-16) relève de l'interprétation déjà donnée pour XXV, 49 (repris, presque mot pour mot, ici même, 9-11 : *wa ǧa'alnā nawmakum subātan wa ǧa'alnā l-layla libāsan wa ǧa'alnā n-nahāra ma'āšan*).

* * *

Restent deux passages où le sommeil est clairement associé à un rêve. C'est, d'abord, la sourate VIII, relative à Badr, sur le thème de Dieu maître des opérations (cf. fin du verset 46/44).

(45/43) *'Iḏ yurīkahumu llāhu fī manāmika qalīlan wa law 'arākahum kaṯīrān lafašiltum wa lataanāza'tum fī l-'amri wa lākinna llāha sallama, 'innahu 'alīmum biḏāti ṣ-ṣudūr(i)*

(46/44) *wa 'iḏ yurīkumūhum 'iḏā ltaqaytum fī 'a'yunikum qalīlan wa yuqallilukum fī 'a'yunihim liyaqḍiya llāhu 'amran kāna maf'ūlan, wa 'ilä llāhi turǧa'u l-'umūr(u).*

Les deux versets forment un tout très homogène, au travers de la construction (avec *'iḏ*), du même verbe *(yurī)* et du thème petit nombre/grand nombre. Tous deux sont amenés par le thème du combat contre l'infidèle (depuis 39/37), plus précisément des luttes soutenues par la jeune communauté musulmane à Médine (depuis 42/40) ; ils ouvrent, en 47/45, sur la déontologie du combattant, invité, au cas de guerre, à tenir ferme pour la cause de Dieu.

Le propos de Dieu est que la bataille ait lieu, afin que soit, par les croyants, consacrée sa victoire. Pour cela, il faut que l'un et l'autre camp soit sûr de sa force numérique par rapport à l'adversaire. Or, dans la réalité, ce sont les croyants qui sont les moins nombreux. Il s'ensuit que, pour que la bataille ait lieu, l'ennemi doit voir la situation *telle qu'elle est*, et les croyants *telle qu'ils croient la voir.* Le verbe *yurī* exprime donc :

1. Le jour de la bataille, en 46 (et, de façon sous-entendue, à travers l'expression *yuqallilukum fī 'a'yunihim*), une réalité de la vision : celle des ennemis, effectivement plus nombreux et qui se voient comme tels.

2. Ce même jour, et cette fois pour les croyants, qui se croient plus nombreux, une illusion de la vue.

3. La veille de la bataille, pour le Prophète, la même illusion, mais en rêve (1). A noter que le Prophète partagera, le lendemain, l'illusion des croyants (il ne pourrait, sous peine de désarroi, voir les choses autrement que le songe les lui annonce).

La véritable opposition n'est donc pas entre le songe et la réalité, mais entre la réalité, d'une part, le songe et la réalité

(1) *Tafsīr*, II, 180, signale une autre interprétation, qui semble tout à fait isolée : en état de veille, *manām* signifiant « lieu du sommeil », c'est-à-dire l'œil.

crue de l'autre (cette distribution recoupant celle qui sépare les infidèles des croyants).

Mais une autre distribution intervient, ternaire celle-là, à partir du moment où on prend en compte le projet de Dieu à travers la bataille (1). Dormant ou voyant, les croyants perçoivent une chose fausse (leur supériorité numérique), mais cette illusion est profitable à la vraie foi, puisqu'elle conduit à la combativité et à l'union, dont l'association permet le salut, lequel relève du plan de Dieu (cf. *fašiltum*, *tanāza'tum*, *sallama*, *liyaqḍiya 'amran kāna maf'ūlan*). A priori, la réalité devrait s'exprimer par les propositions inverses ; mais tel n'est pas toujours le cas : il faut distinguer ici, en effet, pour cette réalité, entre une perception de l'ordre du fait et une perception de l'ordre de l'hypothèse, entre la réalité *effectivement perçue* (par les infidèles) et une réalité *imaginée perçue* (par les croyants : le *law* de notre texte). On aurait ainsi :

			Nombre des croyants	Nombre des infidèles	Réussite (+) ou échec (—)
réel actualisé	perception juste	Vision des infidèles....	—	+	+
	perception fausse	Vision des croyants....	+	—	+
irréel (*law*)	perception juste, mais non réalisée	Hypothèse d'une réalité perçue par les croyants.....	—	+	—

Avant de tirer les conclusions que suggère le tableau, une question se pose : celle des raisons de l'utilisation, par Dieu, du songe ou de l'illusion pour arriver à ses fins. La réponse est claire : si les croyants, Prophète compris, étaient combatifs et sûrs de leur cause, alors ils auraient pu voir la réalité en face

(1) Projet souligné dans *Tafsīr*, II, 181.

et cette vision n'aurait rien changé à leurs cœurs, au déroulement des opérations, et donc au plan de Dieu. C'est l'insuffisance des croyants qui conduit Dieu à ce subterfuge. Le « fond des cœurs » *(ḏāt aṣ-ṣudūr)* est à prendre, semble-t-il, en deux sens : ce qu'il est en réalité (à savoir la couardise ou, du moins, un courage proportionné aux circonstances, ne connaissant pas, en tout cas, cette confiance absolue qui devrait l'inspirer, puisque l'homme se bat pour Dieu), et ce qu'il devrait être, sa définition non plus dans l'ordre du réel observé, mais dans celui de l'éthique (1). Et c'est bien parce que la vérité attendue, celle de l'éthique, n'existe pas, c'est parce que la vérité des faits s'impose comme une négation de cette éthique, que Dieu, dirait-on, est forcé de brouiller les cartes. On ajouterait : au moins provisoirement, dans cette phase de la jeune communauté ; car le verset 47/45 laisse entendre, pour l'avenir, une loi générale où les croyants, affermis par leurs premiers succès, pourront faire enfin coïncider l'éthique et la réalité : *(yā 'ayyuhā llaḏīna 'āmanū, 'iḏā laqītum fi'atan faṯbutū waḏkurū llāha kaṯīran, la'allakum tufliḥūna)* : on remarquera que le groupe ennemi *(fi'a)* n'est pas dénombré, et que le nombre, justement *(kaṯīran)*, ne s'applique plus à la taille de l'adversaire, mais à la foi, fondement de l'éthique et raison du succès *(tufliḥūna)*.

Mais une autre question demeure : pourquoi, devant les deux moyens possibles, le songe et l'illusion, Dieu ne choisit-il pas, pourquoi utilise-t-il *à la fois* l'un et l'autre? Le second, après tout, eût suffi, au jour même de la bataille. Sans doute le rêve, qui vient de Dieu, renforce-t-il à l'avance, par son caractère prémonitoire, l'illusion vécue du lendemain. Mais deux difficultés nouvelles surgissent : pourquoi cette correspondance absolue entre le *matériau* du rêve et l'événement? C'est la *signification* du rêve qui importe : en l'espèce, le petit nombre des ennemis aurait pu être annoncé par un tout autre contenu du rêve, un contenu n'ayant même aucun rapport avec une bataille. On dira qu'il fallait que les choses fussent

(1) Les deux acceptions se trouvent dans *Tafsīr*, II, 180.

bien claires. Soit. Mais alors, si le rêve est bien divin et prémonitoire, pourquoi Dieu n'aurait-il pu révéler à l'avance la bataille dans sa réalité, avec des croyants inférieurs en nombre et pourtant résolus, le caractère sécurisant du rêve dispensant ensuite de recourir à l'illusion qui intervient pendant le jour? Pourquoi, en d'autres termes, cette ressemblance absolue, de thèmes et de nombres, entre le rêve et le tableau perçu ensuite? Et pourquoi la double utilisation du rêve et de l'illusion?

On peut dire qu'il s'agit d'une simple réduplication, le Prophète, l'homme choisi par Dieu, recevant à l'avance, pendant la nuit, la même vision qu'il partagera avec les croyants le lendemain, la réduplication et le statut du Prophète étant des éléments suffisamment sécurisants, comme nous disions, pour qu'on n'insiste pas sur ce point. Mieux vaut pourtant revenir à notre tableau. Le rêve est l'anticipation, à travers un dépositaire privilégié, d'une perception fausse ; mais celle-ci est, d'une part, bénéfique et, surtout, elle ne laisse pas d'être une *réalité* : c'est un fait indéniable que Dieu a « aveuglé » les croyants, et la preuve en est que cet aveuglement bénéfique fut la source de ce fait historique : la victoire de Badr. Tout est donc vrai dans cette bataille (tout sauf, justement, une vision vraie de la part des croyants, celle qu'introduit le *law*) ; tout est vrai, oui, mais c'est un réel de l'ordre du *miraculeux* (1), d'un miraculeux qui tient au croisement, à la conjonction de deux vérités : l'une de fait, celle de la vision des infidèles, l'autre divine, celle de la vision des croyants. Le rêve, en sa prémonition, n'est donc pas superfétatoire par rapport au phénomène qu'il annonce. Si l'on songe qu'à Badr, les croyants sont à la merci d'un mot, d'une moquerie de leurs adversaires raillant leur petit nombre, il faut que, d'entre toutes les réalités de ce jour, celle-là résiste d'abord, qui est précisément l'*illusion* des croyants sur eux-mêmes. Et pour que cette illusion tienne — et ce dans des cœurs un peu faibles —, pour qu'au bout du compte le miracle se réalise, à savoir des ennemis plus nombreux et cependant finalement défaits, on conviendra que ce n'est pas de trop qu'un rêve prémonitoire, vu par ce personnage élu

(1) Le mot de *mu'ǧiza* apparaît dans *Tafsīr*, II, 180, *i.f.*

qu'est Muḥammad et fixant exactement les choses comme elles doivent être. Le rêve est là pour que, Badr venu, les croyants, se voyant supérieurs en nombre, se disent : « Ce n'est pas possible, c'est trop beau, nous rêvons ! » et que le Prophète confirme : « Effectivement, je l'ai rêvé ! » (1).

L'autre verset traitant du rêve est XXXVII, 102, à propos d'Abraham, qui demande un fils à Dieu.

(101) *Fabaššarnāhu biġulāmin ḥalīmin*

(102) *falammā balaġa maʿahu s-saʿya qāla yā bunayya innī ʾarā fī l-manāmi ʾannī ʾaḏbaḥuka fanẓur mā ḏā ṯarā, qāla yā ʾabatī fʿal mā tuʾmaru satağidunī ʾin šāʾa llāhu mina ṣ-ṣābirīn*

(103) *falammā ʾaslamā wa ṯallahu lil-ǧabīni*

(104) *wa nādaynāhu ʾan yā ʾIbrāhīmu*

(105) *qad ṣaddaqta r-ruʾyā ʾinnā kaḏālika naǧzī l-muḥsinīn*

Nous remarquerons d'abord que le passage s'ouvre et se ferme sur deux voix : la première *(baššarnā)* est la réponse au vœu d'Abraham, la seconde la réponse à l'attitude d'Abraham, en d'autres termes la réponse à la réponse faite par Abraham au don de Dieu. Mais si Dieu, qui n'est jamais vu, se fait seulement entendre, tout le passage compris entre les deux voix est, lui, fondé sur la vision : Dieu n'est pas vu, mais il fait voir. Cela posé, il y a deux sortes de visions : celle des choses *(arä, ruʾyā)* et celle de la loi *(fanẓur, ṯarä)*. Cette loi est celle de la liberté entre hommes (Abraham laisse la décision à son fils) (2), mais de la soumission à Dieu *(ṯuʾmaru, aslamā)*, même dans le cas de malheur *(ṣābirīn)*. Le bien *(muḥsinīn)* est un acte délibéré, mais aussi une disposition foncière : l'enfant possède le *ḥilm* (Blachère : « longanime », pour *ḥalīm*) avant même

(1) Ou qu'à l'inverse, comme on voudra, ils disent au Prophète, connaissant déjà son rêve (c'est l'hypothèse retenue par la tradition : cf. *Tafsīr*, II, 180) : « Incroyable et pourtant vrai ! C'est comme ton rêve l'avait dit. »

(2) Même si cet abandon de la décision paraît de pure forme et destiné surtout à éprouver les dispositions du fils (*Tafsīr*, IV, 22), il implique au moins une consultation (*mušāwara*, dit le *Tafsīr*) et, au cas de défaillance, une aide : la décision, en tout état de cause, doit être prise à deux, le décret de Dieu accepté par le père et le fils *(ibid.)*.

d'atteindre sa majorité (*balaġa ma'ahu s-sa'ya* : « être en âge d'aller avec son père ») (1).

Abraham et son fils (2), de la même chair, sont aussi de la même trempe devant Dieu : ils relèvent du même vœu et donc de la même obéissance, ils partagent le même Islam. Abraham avoue son rêve (il aurait pu n'en rien faire), son fils approuve le rêve et, ce faisant, le fait approuver par son père, étant entendu pourtant que c'est au père que revient le mérite essentiel, selon le principe qu'il est plus facile à un fils de mourir pour son père qu'à un père de tuer son fils : c'est sur Abraham que repose l'acte final qui prouve sa croyance au rêve, son approbation à lui et à son fils *(ṣaddaqta)*.

Les seules choses vues, ici, au sens courant du terme, comme nous disions plus haut, sont de l'ordre du rêve : *arä*, *ru'yā*. Le *tarä* adressé au fils, et qui renvoie à une décision, est, en fait, encore engagé dans ce rêve ; le « comment vois-tu ce songe? » précède le : « que penses-tu décider? » Ni Abraham ni son fils ne mettent en doute l'origine divine du rêve. Celui-ci en effet présente un événement monstrueux, disons, à tout le moins, impensable dans la réalité des choses ; si donc il ne peut, tel quel, annoncer un événement à venir, la seule interprétation possible est qu'*il indique quelque chose à faire* (3), qu'il est donc de l'ordre conjugué de la Loi et du mystère, donc de Dieu. Aussi bien s'agit-il, dans le texte, non pas (ou non pas seulement) d'un rêve, celui d'Abraham, qui se réfère à lui-même en l'évoquant, mais du rêve *(al-manām)*, du phénomène-rêve par lequel l'Invisible nous donne à voir : l'article est ici autant et peut-être plus *lil-ǧins* que *lil-'ahd*.

Enfin, et compte tenu de l'origine même qu'on lui prête, le rêve, quoique cru, est traité avec réserve : on ne connaît

(1) L'association de l'enfance et du *ḥilm* est si surprenante que certains commentateurs (*Tafsīr*, IV, 21) semblent distinguer de la façon suivante : nous lui annonçâmes un garçon [qui, grandissant en âge, aurait un jour] ce *ḥilm* (qui est la marque d'un âge avancé *(kibar)*).

(2) Peu importe, pour l'analyse faite ici, qu'il s'agisse d'Isaac ou, selon d'autres traditions, d'Ismaël : cf. *Tafsīr*, IV, 21.

(3) *Tafsīr*, *loc. cit.* : « pour certains, Abraham ne se voit pas, dans le rêve, égorger son fils, mais simplement recevoir l'ordre de le faire ».

jamais en leur plein les pensées de Dieu, ni l'accueil que notre cœur peut leur faire. Le fils dira *'in šā'a llāh* (1), et Abraham, révélant une inquiétude foncière au moment d'un sacrifice qui, à partir d'un rêve mal interprété, peut insulter à la volonté de Dieu, cachera le visage de son fils vers la terre *(tallahu lil-ǧabīni)*, au lieu de le tourner vers le ciel. La foi, donc, est un pari, un pari dangereux, monstrueux peut-être, et le songe participe de son ordre : il n'est pas « crédible » si on le rapporte à l'ordre courant des choses, à l'ordre sensible, il n'est crédible que rapporté à l'ordre de Dieu, mais alors il demande, pour être cru, évidemment un dépassement du sensible. L'acte de voir, comme il apparaît clairement dans le texte par les deux sens du verbe *ra'ä*, relève des deux domaines, et le rêve fonde leur conjonction : il donne à voir des choses qui ne sauraient être vues dans la réalité, des choses qui, pour qu'on les voie effectivement se réaliser, demandent à être « vues », dirions-nous, avec les yeux de la foi.

L'analyse du rêve, pour être poussée plus loin, devrait s'étendre à tous les passages où le Coran traite de ce phénomène, notamment à travers le mot de *ru'yā*. Nous ne l'avons abordée ici, dans deux sourates, qu'à l'occasion du terme *manām*. Le songe, bénéfique parce qu'il vient de Dieu et que Dieu, par son moyen, y poursuit son dessein sur les hommes, nous fait voir, dans les deux textes cités, des choses à la fois sensibles et d'un autre ordre que celui du réel : dans le premier cas, il s'agit de choses croyables, mais qui sont fausses, dans le second de choses incroyables, mais qu'on nous demande de faire devenir vérités. Mais qu'en est-il du sommeil lui-même? Les deux textes distinguent finalement la vision et son contenu *(yurī, fī 'aʿyunikum (-him), 'arä, ru'yā)* de ce sommeil lui-même : *fī manāmika, fī l-manāmi* : *dans* le sommeil, dit le Coran. La préposition indique clairement que le sommeil est le cadre du songe, mais qu'il n'est pas le rêve proprement dit. Pour parler du sommeil, au sens strict, on relèvera qu'il est, une fois de plus, l'occasion d'une surprise : mort ou songe, un événement

(1) Même la volonté d'obéir à Dieu ne peut rien s'Il ne nous prête assistance : *Tafsīr*, IV, 22, *i.f.*

survient contre la volonté du croyant, ou du moins sans que cette volonté ait son mot à dire : ce mot, elle le dira après, et après seulement. D'autre part, comme nous l'indiquions, si Dieu peut toujours faire entendre sa voix, il ne saurait être vu, du moins en cette vie-ci ; le sommeil, état intermédiaire entre vie et mort, l'est aussi en ce que, tout en y restant invisible, Dieu, par lui, nous donne à voir.

Reste un dernier problème : nous savons (1) que ce corps endormi est abandonné par l'âme : comment s'expliquer alors qu'il ménage encore une place à la perception, qu'il soit capable d'enregistrer la vision que Dieu lui donne? La réponse (2) ne peut être trouvée dans une quelconque substitution d'âme (ne serait-ce, entre autres arguments, qu'en raison de la responsabilité individuelle au dernier Jour), mais dans le fait que, l'âme se trouvant rappelée auprès de Dieu, elle est alors à même, en toute évidence, de recueillir cette vision qui vient de Lui et que nous trouverons en nous, avec l'âme revenue, à notre réveil : ce n'est pas notre corps qui a rêvé, c'est notre âme en voyage. Sa participation au domaine de Dieu, qui est, nous l'avons vu, de l'ordre de la mort, est aussi, est d'abord, participation à l'ordre des fins dernières et des desseins de Dieu, au nombre desquels la mort et sa défaite finale figurent tout aussi bien que les projets qu'Il mûrit pour nous tout au long de notre vie.

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En rassemblant les données acquises, nous pouvons dire que le concept de sommeil s'organise selon trois champs et sur le mode de distributions binaires, l'ensemble se subsumant à son tour dans une nouvelle relation à deux termes, elle-même susceptible de synthèse à travers un unique élément.

1) Le sommeil est d'abord *la marque de la condition de l'homme*, être à la fois éminent et fini. Tel quel, le sommeil est

(1) Par les versets, étudiés plus haut, de la sourate XXXIX ; sur le problème posé par son antériorité vis-à-vis d'une des deux sourates expliquées ici (VIII), voir ce qu'on a dit, sur la possibilité des réfractions de sens en amont, à l'occasion de la sourate XXX.

(2) Sauf le cas où on suppose deux âmes à l'homme : cf. *supra*, p. 31, note 2.

une grâce ou, à l'opposé, une servitude : il est repos, mais ce repos est une contrainte qui s'exerce sur l'homme, et qui peut le prendre à toute heure ; il est, de la même façon, communication avec le monde extra-sensible, mais, en même temps, perte de la conscience et, partant, occasion d'une faiblesse livrée sans défense, sans prémonition, à l'épreuve, au danger, voire à la mort.

2) Le sommeil est ensuite *l'image de la vie de l'homme.* Il n'est pas vu avec le même regard selon qu'on le considère comme suspendant l'activité qui le précède ou comme destiné à faire place à celle qui suit. A travers les oppositions classiques nuit/jour, sommeil/veille, non-activité/activité, ce que le sommeil exprime, c'est le grand cycle de la vie et de la mort, la grande loi qui nous régit, qui veut que nous mourions d'abord à demi pour revivre ensuite et que nous dormions de nouveau pour prix d'avoir vécu.

3) Le sommeil est enfin *le signe de la destinée de l'homme.* Au delà du temps cyclique, c'est tout le rappel du temps des origines et toute l'annonce des temps à venir, qui sont impliqués. Le sommeil, quand nous en émergeons, remémore celui d'où nous venons : le néant originel de l'espèce ou le néant dont chacun d'entre nous est issu. Le sommeil, lorsqu'il nous prend, préfigure celui où nous allons, la mort qui, chaque fois, lance ses dés contre nous, les reprend, puis, un beau jour, les abattra à jamais, avant de triompher, au bout des temps révolus, de l'humanité entière. Cosmogonie et eschatologie, particulières ou collectives, sont ainsi marquées en chacun de nous, en tant qu'individu et que représentant de l'espèce.

4) Tous ces traits peuvent être repris dans le sommeil conçu comme *le symbole d'une ontologie de l'homme.* Comme nous le disions dans notre premier point, l'homme est à la fois éminent et fini, mais cette remarque doit être, avec toutes les autres, reprise dans une perspective plus large : celle de la relation de l'homme à l'univers. Le sommeil, dès lors, est le symbole de notre finitude en ce qu'il nous signifie, par référence à Dieu, que nous sommes des êtres banals, précaires, parcellaires, frustrés, ignorants et inférieurs : ainsi nous définissait le célèbre

verset du Trône. Mais en même temps, par rapport au reste de la création, l'homme jouit d'un statut privilégié en ce qu'il est un être *conscient* : conscient de sa finitude, et conscient des marques mêmes de cette finitude, de ce sommeil qui, avec la mort, est justement abolition de la conscience. Intermédiaire entre le Vivant absolu et le simple biologique, l'homme trouve dans le phénomène du sommeil la source même de cette méditation qui, tout à la fois, éclaire et définit son être : un homme-animal, qui dort comme les autres, mais aussi un reflet, même lointain, de Dieu, un être qui, pour être assujetti au sommeil, n'en sait pas moins ce qu'il est et ce qu'il cache.

5) C'est évidemment Dieu, l'Idéal absolu *(al-maṯal al-aʿlä)*, le détenteur des signes suprêmes *(āyāt)*, qui seul peut réduire l'antinomie de notre finitude et de ces traces, prémonitions ou désirs d'une éternité que nous ne trouvons en nous que sous des formes discontinues et inférieures. Au dernier jour, nous verrons la route suivie depuis le sommeil du néant jusqu'aux sommeils réguliers qui scandaient notre vie et à l'ultime, au plus long. Dans la nuit abolie et la mort vaincue, nous assisterons à la ruine des signes dépassés et contradictoires de notre ancienne condition terrestre. Devant le Dieu triomphant, aucune trace de l'ordre ancien ne subsistera : le sommeil, qui y tenait tant de place, verra son rôle achevé, son antinomie, pour ainsi parler, hors d'usage, hors de raison. Dans l'unité totale, il s'abolira. Comme la nuit, comme la mort. Et nous ne dormirons plus.

André Miquel
(Paris)

QUELQUES REMARQUES SUR LES BÉDOUINS D'ÉGYPTE AU MOYEN AGE

Le drame de l'histoire n'est pas une pièce à un seul personnage, chaque peuple y participe, et les Bédouins n'ont pas manqué d'y jouer leur rôle. Mais, dans l'obscurité qui noie souvent les événements trop éloignés de notre temps, la place des Bédouins au Moyen Age, en Égypte, n'a pas été jusqu'ici clairement définie.

Cette histoire des Bédouins n'est pas seulement un fragment ordinaire de la grande Histoire de l'Égypte, c'est l'histoire d'une sorte d'État sans Territoire, où seule l'entente entre les hommes constitue la communauté, indépendante du sol, qu'elle n'occupe souvent que temporairement. Car le Bédouin qui se laisse prendre aux sortilèges d'une terre devient un sédentaire.

Lorsque les Bédouins arrivent en Égypte (1), c'est la religion commune, l'Islam, qui donne à cette communauté bédouine l'élan nécessaire à son extraordinaire expansion (2). Le fait de se trouver en Égypte va différencier les Bédouins d'Égypte d'avec la grande masse des Arabes des autres parties du monde

(1) A. H. Saleh, « *Les Bédouins d'Égypte au Moyen-Age* », thèse de Doctorat d'État, Paris I, 1975, p. 355.

(2) De Planhol, *Les fondements géographiques de l'Islam*, Paris, 1963, p. 36-37. N. Abbott, « *A new papyrus...* » *Arabic and Islamic Studies in Honor of H. A. R. Gibb*, 1965, p. 35.

musulman. Non pas couper les grandes relations traditionnelles de parenté entre les tribus, mais faire en sorte que les événements du monde musulman n'arrivent en Égypte qu'amortis par toute l'épaisseur des déserts qu'ils ont traversés. Et les Bédouins d'Égypte vont, au fil des âges, subir la lente influence du sol égyptien, au point que bon nombre d'entre eux abandonneront le nomadisme pour adopter le mode de vie sédentaire.

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Écrire l'histoire des Bédouins d'Égypte n'est donc pas l'entreprise classique que demande normalement un sujet historique conforme aux normes habituelles. La méthode la plus fructueuse est de se placer comme un observateur en quelque sorte fixe qui, année par année, ou règne par règne, met en lumière le mouvement des Bédouins dans les rôles de l'Histoire et ne considère que les seuls Bédouins dans l'ensemble des acteurs de cette Histoire. Cependant, l'expérience montre qu'il est impossible de ne pas recourir aux généalogies pour arriver à différencier les tribus(1). Les Bédouins se présentent comme une masse à la fois compacte et vague, fluctuante et indéterminée, tant que l'on n'a pas réussi à mettre en ordre les relations de *baṭn* (2) à *qabīla* (3), et de *qabīla* au *šaʿb* (4) originel. Mais cette répartition faite, la masse des Bédouins devient alors composée d'entités quasi individuelles qu'il est aisé de reconnaître, donc de connaître (5).

Mais la rareté des informations sur les Bédouins est un obstacle sérieux.

Il est aussi indispensable de localiser les tribus bédouines sur le territoire égyptien, car, de la répartition géographique des aires de stationnement des tribus de Bédouins en Égypte (6), on peut tirer quelques conclusions intéressantes :

(1) Cf. Qalqašandī, *Qalāʾid*, éd. Ibyārī, Le Caire, 1963, p. 2.
(2) Cf. *E.I.*², t. 1, p. 1135, article Baṭn, par J. Lecerf.
(3) Cf. *E.I.*², t. 4, p. 348, article Ḳabīla, par J. Chelhod.
(4) Cf. Qalqašandī, *op. cit.*, p. 14.
(5) Voir les planches I, II, III.
(6) Voir les planches IV et V.

— Déterminer les préférences des Bédouins, en ce qui concerne le milieu naturel où ils choisissent de séjourner. C'est ainsi que les bordures de l'Égypte, les zones de sable, de marécages et un relief de collines ou de falaises semblent avoir attiré les Bédouins plus encore que le paysage classique de la vallée du Nil : terre noire inondable, irriguée normalement par un système de canaux et de bassins (1). Il est vrai que ces terrains, les plus productifs, étaient certainement en possession des Coptes, au moment où les Bédouins s'installèrent en Égypte. Il semble en effet exact, dans le cas des Bédouins d'Égypte, qu'ils se « soient insinués seulement dans les espaces impropres à l'agriculture » (2), et qu'ils aient procédé à la « mise en valeur d'espaces qui étaient restés inutilisés » (2).

— Mettre en relief l'activité des Bédouins dans telle ou telle province dont on connaît l'évolution économique à la période pendant laquelle les Bédouins s'y sont installés. C'est le cas des deux provinces du Ḥūf al-Šarqī (3), et de la région d'Iḫmīm, au Ṣa'īd.

La région d'Iḫmīm, au Ṣa'īd, se trouvait à l'état de ruines, et ses champs étaient laissés en friche, car les massacres perpétrés par les Mamluks parmi les Bédouins du Ṣa'īd en 651 (4), en 701 (5), et en 754 (6) H., avaient pratiquement vidé la région de sa population. C'est après la bataille de Badr b. Sallām, en 781 H. (7), que le Atābik Barqūq fit venir les vaincus, les Hawwāra, pour peupler cette province. Et la prospérité réelle de ce pays est due au travail de ce *baṭn* de Berbères, les Hawwāra, à qui revient le mérite d'avoir introduit la culture

(1) Cf. G. Hamdan, « *Évolution de l'agriculture irriguée en Égypte* », *in Histoire de l'utilisation des terres des régions arides*, UNESCO, Paris, 1961, p. 149.

(2) Cf. Cl. Cahen, « *Nomades et Sédentaires dans le monde musulman du milieu du Moyen-Age* », *Islamic Civilization*, Oxford, 1973, p. 95.

(3) Écrit al-Ḥawf al-Šarqī dans la langue classique, et écrit usuellement al-Ḥūf, terme que nous utilisons dans cet article. Pour l'étymologie du mot et sa définition, cf. Dozy, *Suppl.* t. 1, p. 338 ; voir également Maqrīzī, *Sulūk*, t. 1, part I, p. 202 et note 2 ; Yāqūt, *Mu'ǧam al-Buldān*, t. 2, p. 322.

(4) Cf. Maqrīzī, *Sulūk*, t. 1, part II, p. 387.

(5) Cf. *ibid.*, t. 2, p. 33 et suivantes.

(6) Cf. *ibid.*, t. 2, part III, p. 908.

(7) Cf. Ibn 'Iyâs, *Badā'i'*, p. 215 et Ibn Šāhīn, *Zubda*, p. 36.

de la canne à sucre, et d'avoir également installé les premiers pressoirs à broyer les cannes (1).

Quant au Ḥūf al-Šarqī, c'était une zone de terrains laissés en friche, lorsque les Qaysites vinrent s'y installer, à l'instigation de ʿUbayd Allāh b. al-Ḥabḥāb (2), à partir de 105 H./724. La région de Bilbays, notamment, où les Qaysites reçurent l'ordre de stationner, était pratiquement vide et inculte. Or les Qaysites reçurent aussi l'ordre de cultiver la terre : ce qu'ils firent, avec grand succès, semble-t-il. Il ne faut pas oublier que les Bédouins, à leur arrivée en Égypte, étaient sous le coup de l'interdiction de cultiver la terre, défense que leur avait faite le Calife ʿUmar b. al-Ḫaṭṭāb, et la consigne avait été strictement appliquée pendant plus d'un siècle (3). Les Bédouins avaient cependant continué de pratiquer l'élevage (4), leur occupation traditionnelle.

A partir du moment où les Bédouins purent cultiver le sol, il semble qu'ils soient devenus semblables aux fellahs, si bien mêlés à cette population des campagnes, qu'il faudra aux Mamluks relever chez les Bédouins une particularité de prononciation — le *qāf* du mot « farine », daqīq —, pour pouvoir distinguer un fellah de souche égyptienne, d'un fellah de souche bédouine (5).

Et ici, nous touchons à un caractère remarquable du bédouin : sa faculté d'adaptation à une écologie donnée, faculté qui lui permet de changer de mode de vie, d'occupations, de moyens d'existence, suivant l'endroit où il séjourne et en fonction des conditions qui régissent cet endroit. C'est ainsi que les Bédouins étaient, dans leur grande majorité, des nomades, avant la conquête arabe. Sur le sol égyptien ils ont été, pratiquement, en état sédentarisé, mais le climat politique leur devenant

(1) Cf. Maqrīzī, *al-Bayān*, Le Caire 1961, p. 58.

(2) Cf. Abbott, *op. cit.*, p. 27.

(3) Cf. Maqrīzī, *al-Bayān*, p. 101.

(4) Il ne serait pas sans intérêt de connaître les bêtes élevées par les Bédouins venus en Égypte. Ovins, caprins, bovins, ou même chevaux et chameaux ? Autrement dit, les tribus appartenaient-elles aux grands Bédouins chameliers, ou aux tribus simplement transhumantes, à la recherche d'eau et de pâturages ?

(5) Cf. Lane-Pool, *A history of Egypt* p. 300.

hostile, un grand nombre d'entre eux reprendront l'état nomade, et, quittant les franges fertiles de la vallée du Nil, ils s'enfonceront dans les déserts pour se mettre à l'abri des Mamluks (1). Les autres, restés en Égypte, s'identifieront le plus possible aux fellahs, et deviendront définitivement sédentaires.

Il serait bien sûr important de connaître la durée de cette période de transition qui sépare le Bédouin, nomade authentique lorsqu'il entre en Égypte, du fellah d'origine bédouine, absorbé par cette grande richesse statique de l'Égypte perpétuellement renouvelée dans sa fertilité par la crue du fleuve. Mais comment évaluer ce temps? Et fut-il, ce temps, de même longueur pour chaque tribu, ou pour chaque famille? Probablement non. Les seules indications que l'on pourrait tirer sont éparses dans des informations relatives à tout autre chose. Par exemple, les 'Azd, tribu où les premiers gouverneurs de l'Égypte musulmane iront chercher leurs hommes de confiance pour les postes qui exigent l'intégrité (2), ces 'Azd verront bon nombre de leurs membres quitter la vie bédouine pour mener à la capitale l'existence urbaine qu'entraînaient leurs fonctions dans l'administration du pays. Que dire de ceux dont les tombeaux sont au Caire et dont les épitaphes, datées des IIe et IIIe siècles de l'Hégire, affirment l'appartenance du mort à une tribu stationnée, à la même époque, quelque part dans le Ḥūf al-Šarqī? On a aussi la mention des Banī Ǧamā'a, *baṭn* de Kināna, qui donneront trois générations de *Qāḍīs* (3) à l'Égypte, entre 695 et 785 H./1291-1383.

Mais ne s'agit-il pas d'une coutume pratiquée par les Bédouins, comme par bien d'autres? Chez les Nubiens modernes, les membres les plus riches, ou les plus instruits, ou les plus astucieux de la famille, vont à la ville chercher rang et fortune, tandis que le reste de la tribu continue son existence bédouine, dans le fond de sa campagne. Peut-on parler, dans ce cas, d'une véritable sédentarisation? Ou, encore une fois, d'une

(1) Cf. Maqrīzī, *Sulūk*, t. 2, part III, p. 911 ; Ibn 'Iyās, *op. cit.*, p. 171-172.
(2) Cf. Ibn 'Abd al-Ḥakam, *Futūḥ*, éd. Massé, Le Caire 1914, p. 125.
(3) Cf. Subkī, *Tabaqāt*, t. 5, p. 46-47 ; Suyūṭī, *Ḥusn*, t. 2, p. 101-102 ; Salibi, « *The Bani Jama'a* » *in Studia Islamica* IX (1958) p. 97.

adaptation opportuniste aux nécessités et aux possibilités de la vie ambiante?

Mais ce que les Bédouins semblent avoir eu en commun, et qui les différencie peut être des peuples auprès desquels ils vivent, c'est leur éthique tribale. Tels que l'on peut en voir les mécanismes jouer au cours des événements auxquels les Bédouins étaient mêlés, voici ce que l'on peut dire de cette éthique : elle comportait un sens aigu de la famille, des droits et des devoirs de chaque membre de la tribu envers sa parenté, et la soumission absolue à l'autorité du chef de file. La tribu agit comme un corps uni, et l'ensemble se comporte comme un seul homme. L'injure faite à l'un est prise en compte et sera vengée par tous. Toute la tribu jouit en commun du domaine alloué en *'Iqṭā'āt* au seul chef de file. Et les prises de position politiques ne sont jamais le fait d'un seul Bédouin, mais de toute sa tribu en même temps que lui. Ce qui explique l'attitude des Sultans Mamluks, que l'on voit parfois essayer d'amadouer les Bédouins et, pour ce faire, recevoir, honorer et combler de cadeaux et d'argent le chef bédouin d'une tribu, tribu dont on sait dans le même temps que le Sultan essaie de réprimer les désordres, par l'action toujours implacable d'un détachement de soldats sultaniens, une *taǧrīda*, envoyée sur place. Mais il est probable que les Bédouins dont le chef, sous les Mamluks, était presque toujours choisi et nommé (1) par le Sultan, ne reconnaissaient pas toujours ce chef comme tel... et donc ne lui obéissaient pas.

Car la contrepartie *sine qua non* de cette obéissance stricte au chef de la tribu est le libre choix, par le Bédouin, de ce chef dont il ne songera pas à contester l'autorité qu'il lui aura lui-même conférée. Mais cette institution, faussée par la substitution du chef imposé au chef choisi, a certainement été une des causes des multiples révoltes des Bédouins, que les Mamluks noyaient dans le sang.

(1) Cf. 'Umarī, *Ta'rīf*, p. 109 et 113.

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La connaissance que l'historien voudrait avoir du phénomène nomade comporte des problèmes variés. L'un d'eux est constitué par les affinités reliant les éléments : sol-climat-nomadisme.

L'étude de la répartition géographique des aires de stationnement que les Bédouins se sont choisies en Égypte, est certainement un champ fertile d'informations sur le sujet, et c'est la raison pour laquelle il est également nécessaire d'avoir un aperçu sommaire des classifications géographiques qui ont été effectuées pour chaque région d'Égypte où se trouvaient des Bédouins.

Mais cette répartition des aires de stationnement des Bédouins est aussi le moyen de faire apparaître d'autres facteurs, en ce qui concerne en particulier les relations des tribus entre elles. C'est ainsi que la division fondamentale ʿAdnān-Qaḥṭān se retrouve dans les groupements qui se sont opérés dans les aires de stationnement : à partir de la charnière naturelle constituée par le Nil, on voit, en gros, le domaine Qaḥṭān s'étaler à l'est du fleuve, tandis que les territoires peuplés de ʿAdnāns et de Berbères se trouvent à l'ouest du Nil.

On peut encore tirer des informations valables du déroulement, dans le temps, des relations de voisinage entre les tribus aux aires de stationnement voisines. Les querelles ne manquaient pas, entre tribus voisines, mais il en est aussi dont les relations ont été suffisamment bonnes pour que l'écho de leurs inévitables démêlés n'arrivent pas jusqu'aux oreilles des autorités du pays, ou à celles des chroniqueurs.

En dernier lieu, savoir où se trouvaient les Bédouins au Moyen Age est une possibilité, jusqu'ici inutilisée, de connaître les origines lointaines mais presque probables de la population de certaines régions de l'Égypte. L'étude onomastique de l'Égypte moderne ne peut être complète sans l'apport des patronymes bédouins : à côté des noms d'origine kurde, turcomane ou ottomane, dont l'étymologie remonte toujours à un nom de métier ou de fonction : al-Qahwāǧī (le cafetier), al-Ḥaddād (le forgeron), al-Silaḥdār (l'armurier), al-Munaǧǧid

(le tapissier), al-Labbān (le laitier), etc., la connaissance des tribus bédouines permettra d'identifier des patronymes tels que : al-Sa'dī, ou al-Hilbāwī, venus des tribus arabes des Sa'd ou des Halbā'.

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Il ne faut pas dissimuler le fait qu'en groupant les tribus bédouines, et en les répartissant généalogiquement, elles se présentent comme un bloc monolithique, où tous les *buṭūn* sont agglomérés artificiellement, et sans qu'il soit tenu compte de l'élément qui a commandé pourtant leur existence même : le temps. Ce fait est dû à la nature même de la documentation. Car la répartition généalogique se fonde sur les informations fournies par des documents datés, et les auteurs de ces sources vivaient sous les Mamluks. On a donc une sorte de coupe stratigraphique dans le temps, dont le niveau supérieur est l'époque mamluke, et dont la couche la plus basse représente, en principe, l'ancêtre ou les ancêtres communs. Mais il est pratiquement impossible de situer chaque *baṭn* à son niveau exact en chronologie absolue, et même impossible de lui assigner un rang synchroniquement valable par rapport aux *buṭūn* contemporains.

Car le nombre de générations séparant chaque nouveau *baṭn* du rameau commun est toujours inconnu, mais, logiquement, c'est un nombre essentiellement variable.

Pour palier à cet état de fait, une notation systématique de la date d'arrivée d'une tribu donnée doit être faite. Sans que l'on puisse d'ailleurs faire cette notation avec toute la précision que l'on souhaiterait, en ce qui concerne les *buṭūn*, en raison de la coutume toujours observée, de se référer à la grande tribu à laquelle appartient un *baṭn* arrivant en Égypte, plutôt que de nommer le *baṭn* lui-même (1) sans référence à la tribu-mère.

(1) Il faut reconnaître que dans le cas où une tribu n'a pas été rattachée à sa tribu-mère, il est impossible de savoir même s'il s'agit d'Arabes, de Berbères, ou d'un tout autre peuple : les al-'Azzāla sont peut-être un « *Ḥayy* des Arabes », sans que rien de plus ne puisse être dit à leur sujet.

Néanmoins, l'enregistrement des dates d'entrée des différentes tribus est un moyen de repérer les différentes couches de Bédouins successivement venues sur le sol égyptien. Et c'est aussi le moyen d'apprécier le phénomène nomade, et suivant les circonstances de chaque arrivée de tribus, de déterminer quelles ont pu être les causes de migration : raisons politiques, contexte économique et climatique, ou autres. Enfin, il arrive que ce soit une possibilité d'appréciation numérique des tribus bédouines.

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Un phénomène d'importance a mûri sur le sol d'Égypte, et dont les Bédouins sont en grande partie responsables. Car, en effet, lorsque des étrangers viennent en Égypte, c'est généralement dans les villes qu'ils s'installent ; c'est probablement la raison pour laquelle ces étrangers n'ont aucune influence profonde sur la population égyptienne, mais subissent, au contraire, une égyptianisation généralement rapide. Avec les Bédouins, c'est l'inverse qui s'est produit. La campagne a reçu plus de monde que les villes, et si les Bédouins sont devenus, à la longue, en se sédentarisant, d'authentiques fellahs d'Égypte, ils ont de ce fait arabisé le pays, en lui donnant une autre langue ; l'arabe a définitivement remplacé le copte comme langue parlée (1).

Les Bédouins ont également contribué à islamiser l'Égypte, en constituant la grande masse des musulmans, l'Islam étant leur religion et celle des dirigeants, à côté des Coptes dont le christianisme est devenu progressivement minoritaire.

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L'histoire des Bédouins d'Égypte comporte ses phases propres qui ne coïncident pas nécessairement avec les grandes divisions ordinairement admises de l'histoire.

(1) Cf. A. Mallon, *Grammaire Copte*, Beyrouth 1926, p. 2.

Car les événements de l'histoire ne provoquent les réactions des Bédouins qu'en fonction de l'éthique bédouine. Et l'analyse de leur comportement semble indiquer qu'ils dissocient la notion d'État et celle de Possession du Sol. L'occupation d'un territoire garde dans leur optique un caractère temporaire et presque fortuit, et ne présente pas cet aspect définitif qui serait le point de vue qu'un sédentaire tenterait de faire valoir. Lorsque les Mamluks seront les maîtres du pays, les Bédouins devront s'interroger sur leurs sentiments envers la terre d'Égypte, et ils auront le choix entre rester Bédouins mais la quitter, ou devenir sédentaires et y demeurer. Mais avant cela, les Bédouins auront connu plusieurs sortes de rapports avec le Pouvoir, d'où plusieurs phases dans leur comportement, et donc plusieurs périodes dans leur histoire.

La première période de l'histoire des Bédouins d'Égypte est celle de la prise réelle de possession de ce pays. Elle commence avec la conquête menée à bien par l'armée de ʿAmr b. al-ʿĀṣ, et se poursuit tant que l'Égypte est placée sous l'autorité d'un gouverneur d'origine arabe ou même bédouine, c'est-à-dire jusqu'en 238 H./852.

C'est l'époque de l'entrée en force des tribus, celle de leur installation, du choix des zones de stationnement par le biais de l'*Irtibāʿ* (1), cette transhumance printannière inventée par ʿAmr b. al-ʿĀṣ lui-même, pour garder aux Bédouins de la conquête un temps annuel de vie nomade.

C'est aussi l'époque où les Bédouins sont appelés par le *Wālī*, soit pour l'entourer lorsqu'il s'agit de sa parenté (2), soit pour lui fournir des hommes de confiance pour assumer des fonctions dans l'administration du pays (3), soit encore pour participer au maintien de l'ordre : les Qaysites du Ḥūf al-Šarqī se déplacent jusqu'en Haute Égypte pour rétablir la paix dans la région de Qifṭ, troublée par les Béja (4).

(1) Sur les modalités de l'*Irtibāʿ*, cf. Ibn ʿAbd al-Ḥakam, *op. cit.*, p. 141-143 ; Maqrīzī, *Ḫiṭaṭ*, t. 4, p. 28-29 ; Abul Maḥâsin, *Nuǧūm*, t. 1, p. 73 ; Suyūṭī, *Ḥusn*, t. 1, p. 153-154.

(2) Cf. al-Kindī, *Wulāt*, Ed. Beyrouth 1908, p. 113.

(3) Comme c'était le cas des ʾAzd, ainsi qu'il a été dit plus haut.

(4) Cf. Ibn ʿAbd al-Ḥakam, *op. cit.*, p. 189 ; Ibn Ḥawqal, *Kitāb Ṣūrat al-ʾArḍ*, Leyde 1938, p. 51-52.

C'est dire que les Bédouins sont en complet accord avec les *Wulāt* qui gouvernent l'Égypte pour le compte des Califes. Et leur obéissance à ces *Wulāt* est en général stricte. La défense de pratiquer l'agriculture, par exemple, qui avait été faite aux tribus de la conquête, était encore en vigueur un siècle plus tard, et ce n'est qu'aux environs de l'an 109 H./727, que, sur l'ordre du *ʿĀmil* du *Ḫarāǧ* en Égypte, le Qaysite ʿUbayd Allah b. al-Ḥabḥāb, les Bédouins d'Égypte, et tout particulièrement les ʿAdnāns nouvellement arrivés, se mettront à cultiver le sol. Événement capital dans leur histoire : les Bédouins connaîtront de ce fait des circonstances favorables à leur sédentarisation, ou du moins à un enrichissement qui deviendra notoire au fil des temps. Les Ummayyades ont même accordé aux Bédouins une aide financière (1) pour que leurs entreprises de cultivateurs soient couronnées de succès.

Mais les démêlés des Bédouins et du pouvoir au sujet de l'impôt sur les terres cultivées vont commencer, car les Califes Abbassides, renversant la vapeur, exigeront au contraire qu'un impôt terrien soit payé par les Bédouins, en fonction des terres qui leur ont été allouées pour être cultivées. D'où la longue liste des troubles causés par les Bédouins qui refusaient de s'acquitter de l'impôt (2).

La place tenue par les Bédouins dans l'organisation de l'État musulman d'Égypte des deux premiers siècles de l'Hégire, se laisse entrevoir par les mesures prises à leur encontre, à partir du moment où d'autres ethnies chercheront à supplanter les Arabes dans l'exercice du pouvoir, et où les familles gouvernantes ne seront plus purement arabes. C'est le Calife al-Muʿtaṣim, fils d'une mère d'origine turque, qui ordonna, en 217 H./832, à son *Wālī*, de supprimer le *ʿAṭāʾ* (3) versé aux Bédouins d'Égypte, et de rayer tous leurs noms des registres du Diwān (4). En même temps, il réduisait le nombre des Arabes dans l'armée et les

(1) Cf. Maqrīzī, *al-Bayān*, p. 67.
(2) Cf. al-Kindī, *op. cit.*, p. 136-140 ; Abul Maḥāsin, *op. cit.*, t. 2, p. 87.
(3) Cf. *E.I.*², t. 1, p. 751, article ʿAṭāʾ par Cl. Cahen.
(4) Cf. *E.I.*², t. 2, p. 336-337.

remplaçait par des Turcs (1). Enfin, en 238 H./852, un dernier *Wālī* Arabe est nommé en Égypte : son successeur sera d'origine persane, et les Bédouins ne seront plus gouvernés par quelqu'un de leur sang avant l'arrivée des Fatimides au Caire. La première période de l'histoire des Bédouins d'Égypte est terminée.

Pendant les cent vingt ans qui suivent, c'est-à-dire jusqu'à la prise du pouvoir par les Fatimides, en 358 H./969, les informations assez rares qui concernent les Bédouins d'Égypte indiquent qu'ils menaient, semble-t-il, une vie en marge du pouvoir. Les tribus s'accroissent, s'enrichissent, mais cherchent l'aventure : les Banī Mudliğ s'emparent d'une partie du Delta et même d'Alexandrie, vers 253 H./867 (2). Une expédition punitive est montée par un ʿUmarī (3) contre les Béja (4) de Nubie « pour la gloire de Dieu et pour venger les Musulmans », raid dont Ibn Ṭūlūn (5) qui régnait alors sur l'Égypte, ne semble avoir été informé qu'après coup, bien que plusieurs tribus bédouines, et non des moindres, aient pris part à cette affaire : Les Rabiʿa, notamment, dont l'alliance conclue plus tard avec une fraction des mêmes Béja leur donnera la suprématie sur toute la région des mines, le Wādī ʿAllāqī (6), et leur permettra même, à long terme, de fonder une principauté arabe, englobant ʾAswān (7).

Si l'on veut résumer l'histoire des Bédouins d'Égypte sous les Califes Fatimides, on peut dire que non seulement ils étaient bien en cour, mais qu'ils prospéraient tranquillement sous leur égide (8), et même qu'ils participèrent pleinement à l'exercice du pouvoir (9). Et, à l'inverse de ce que l'on dira d'eux sous les Mamluks, le prestige des Bédouins est bien établi et leur importance est grande.

(1) Cf. al-Kindī, *op. cit.*, p. 193 ; Maqrīzī, *Ḫiṭaṭ*, t. 1, p. 151.

(2) Cf. Quatremère, *Mémoire sur les Tribus Arabes*, Paris 1811, p. 198 et suivantes.

(3) Cf. Ibn al-Aṯīr, *al-Kāmil*, t. 5, p. 369.

(4) Cf. *E.I.*², t. 1, article Bedja.

(5) Cf. Maqrīzī, *al-Muqqaffā*, MS. de la B. du Caire, numéro 5372, t. 4, folios 164-168.

(6) Cf. al-Yaʿqūbī, *Buldān*, t. 2, p. 89.

(7) Cf. Maqrīzī, *al-Bayān*, p. 45.

(8) Cf. Qalqašandī, *Nihāyat al-ʾArab*, p. 85 ; Maqrīzī, *al-Bayān*, p. 43.

(9) L'exemple de Šāwar al-Saʿdī est évident.

Si l'on veut donner quelques preuves de ceci, citons, à propos du prestige des Bédouins, le chef de la tribu des Rabi'a, qui devint « Kanz al-Dawla », et sa tribu les Banī al-Kanz (1). Sans oublier l'apparition de la personnalité légendaire d'Abū Zayd al-Hilālī, ce héros (2), réputé parmi les fellahs d'Égypte et du Soudan.

L'importance des Bédouins apparaît très souvent, chaque fois qu'un parti, voulant renforcer ses chances de succès, faisait appel aux tribus bédouines. Déjà, sous le Calife al-Ḥākim, on voit Abū Rakwa (3) faire appel aux Bédouins de Buḥayra, pour les rallier à sa cause et tenter de prendre la place des Fatimides.

Que les Bédouins aient entouré le Calife, et son *Wazīr*, est un fait certain. On sait, par exemple, que l'un des cortèges accompagnant les Califes pendant leurs sorties se composaient de Bédouins ; al-Ḥākim, au jour de sa disparition mystérieuse, était ainsi escorté (4). On sait aussi qu'une Bédouine de la tribu des Ṭayy' épousa le Calife al-'Āmir, et que pour lui plaire, al-'Āmir fit faire un palais selon les goûts de son épouse (5) et que fréquentait la famille de cette Bédouine. Les *Wazīrs* enfin, étaient fréquemment choisis parmi les membres des tribus bédouines, comme, entre autres, Šāwar al-Sa'dī qui appartenait aux Su'ūd Ǧuḏām.

D'un point de vue plus général, on peut dire que tant que l'autorité des Califes Fatimides eut quelque consistance, les Bédouins furent à leurs côtés. Ensuite — soit après la mort de al-Yāzūrī (6) en 450 H. —, les tribus furent utilisées par les différents candidats au Wizirat pour renforcer leur potentiel de lutte ; et même, à partir du moment où Ibn Maṣāl (7) recruta des Bédouins pour une armée plus à sa dévotion qu'à celle de

(1) Cf. Maqrīzī, *al-Bayān*, p. 45-46.
(2) Cf. Lane-Pool, *History*, p. 128 ; Mac Michael, *Arab Tribs*, t. 1 p. 145.
(3) Cf. Maqrīzī, *'Itti'āẓ*, t. 2, p. 60-66 ; Ibn Ẓāfir, *'Aḫbār al-Duwal al-Munqaṭi'a*, Éd. A. Ferré, Paris 1972, p. 45-47 ; Lane-Pool, *op. cit.*, p. 128-129.
(4) Cf. Abul Maḥāsin, *Nuǧūm* t. 4, p. 185 ; Ibn Ẓāfir, *op. cit.*, p. 58-59.
(5) Cf. Maqrīzī, *Ḫiṭaṭ*, t. 2, p. 381-382.
(6) Cf. Ṣayrafī, *'Išāra*, Ed. Muḫliṣ, p. 40-45.
(7) Cf. *E.I.*², t. 3, p. 892 article Ibn Maṣāl par M. Canard.

son maître le Calife al-Ẓāfir, les Bédouins furent entraînés aux côtés des chefs de bande successifs, que ce soit Ḍirġām (1) ou Šāwar al-Sa'dī, plutôt qu'en faveur d'un Calife dont l'existence se déroulait à l'écart de l'exercice réel du pouvoir.

On aimerait savoir si les Bédouins étaient utilisés par les différents partis soucieux de faire pencher la balance en leur faveur, en raison de leur richesse et de leur puissance militaire, ou bien si leur opinion et leur avis comportaient en eux-mêmes une valeur de décision dans le gouvernement du pays. Mais l'état de la documentation ne permet que rarement de répondre à ces questions.

Pendant les deux siècles du Califat Fatimide, les Bédouins connurent en Égypte leur apogée. Leur expansion est à son maximum, le nombre des tribus va toujours croissant, car les entrées (2) sont nombreuses et encouragées (3) par les Califes, et les départs peu fréquents — bien que gros de conséquences historiques, dans le cas des Banī Hilāl (4) et des Banī Sulaym. Et, en ce qui concerne la richesse des Bédouins, elle est fabuleuse (5) : aux revenus d'une agriculture florissante, les Bédouins ajoutent les cadeaux du Calife qui sont parfois fort importants et les bénéfices qu'ils peuvent tirer des expéditions militaires auxquelles ils prennent part aux côtés des soldats du Calife.

Mais la décadence des Fatimides sera également la leur. Lorsque cette famille de leur sang va perdre le pouvoir, les Bédouins vont le perdre aussi. Et la période de l'apogée des Bédouins d'Égypte se termine.

Les effets de l'arrivée au pouvoir d'une ethnie étrangère aux Arabes ne seront sensibles pour les Bédouins qu'avec un peu de retard.

Le règne des Ayyubides en effet, dans l'histoire des Bédouins d'Égypte, n'est en rien comparable à ce que sera pour eux l'implacable férule mamluke. Il est vrai que les Ayyubides

(1) Cf. *E.I.*², t. 2, p. 327-328, article Ḍirgẖām par M. Canard.
(2) Les exemples sont multiples, cf. Maqrīzī, *al-Bayān*, p. 10 et passim.
(3) Cf. Maqrīzī, *al-Bayān*, p. 68 et suivantes.
(4) Cf. *E.I.*², t. 3, p. 398 article Banī Hilāl par H. R. Idris.
(5) Cf. Ibn al-Furāt, dans la partie éditée par Cl. Cahen, « *Un récit inédit du Vizirat de Ḍirgham* » in *AI*, VIII, (1969), p. 40.

appartiennent à une ethnie kurde, et que, par conséquent, les démêlés entre le pouvoir et les Bédouins cesseront d'être les « affaires de famille » qui caractérisaient les relations des Bédouins avec les Fatimides. Il est également vrai que Ṣalāḥ ed-Dīn a vigoureusement maté les Bédouins (1) ; mais l'opposition de Ṣalāḥ ed-Dīn aux Bédouins ne semble pas avoir eu d'autres motifs que la nécessité où il se trouvait de remporter de difficiles victoires, pour asseoir son pouvoir et pour faire triompher l'Islam (2). Et pour atteindre ce double but, il lui fallait neutraliser les Bédouins.

Car les Bédouins avaient une attitude par trop favorable aux Croisés (3). Et d'autre part, leurs sentiments pro-fatimides pouvaient les conduire à se retourner contre le pouvoir nouvellement établi, ce qu'avaient voulu faire les Banī al-Kanz, au début du règne. D'où la nécessité pour l'Ayyubide de triompher militairement des rebellions bédouines et ensuite d'éliminer le plus possible les Bédouins d'une armée sur laquelle il devait pouvoir compter, face aux Croisés ; il lui fallait empêcher une collaboration évidente entre les Bédouins et les Croisés, soit par le déplacement des tribus incriminées, soit par la confiscation des blés récoltés par les Bédouins, afin que ceux-ci ne puissent aller les vendre aux Francs (4).

Les successeurs de Ṣalāḥ ed-Dīn entretiendront avec les Bédouins des relations normales : il est exact que les Bédouins ne retrouveront plus jamais l'accès aux affaires que les Fatimides accordaient si volontiers à ceux des Bédouins qui savaient en être dignes. Mais cependant les Bédouins ne sont pas les « hors la loi » qu'en feront les Mamluks. Non seulement, pendant la phase de leur lutte contre les premiers Ayyubides, les Bédouins se sont rapprochés de la population égyptienne avec laquelle ils ont fait cause commune (5) face aux nouveaux maîtres du

(1) Cf. Maqrīzī, *Sulūk*, t. 1, part 1, p. 47 ; A. L. al-Sayed, *Qabā'il al-'Arab fī Miṣr*, p. 43.

(2) Cf. Ibn Wāṣil, *Mufarriǧ*, t. 1, p. 225.

(3) Cf. Abū Šāma, *Rawḍatayn*, t. 2, p. 91 ; Ibn Wāṣil, *op. cit.*, t. 2, p. 209-210 ; Qalqašandī, *Nihāyat*, p. 195 ; Maqrīzī, *al-Bayān*, p. 5.

(4) Cf. Maqrīzī, *Sulūk*, t. 1, part 1 p. 71.

(5) Cf. Nābulsī, *Luma'*, Ed. Cl. Cahen, p. 170.

pays, mais encore, lorsqu'ils auront finalement accepté ces nouveaux maîtres, ils entoureront le Sultan, entretiendront avec lui des relations d'amitié, soit individuellement (1), soit au niveau de la tribu entière, — comme ce fut le cas des Ğa'far al-Ṭayyār (les Ğa'āfira) (2) — et les Bédouins participeront efficacement aux combats que les Ayyubides continueront à mener contre les Croisés (3).

Indice symptomatique de l'état d'esprit des Ayyubides : ils ont cherché à se constituer une généalogie qui les aurait apparentés aux Arabes... (4)

L'époque Ayyubide, pour les Bédouins, est donc une période de transition, certes moins glorieuse pour eux que le règne des Fatimides, mais une période qui n'est pas fondamentalement différente de la précédente. La coupure se situe exactement au moment où les Mamluks prennent le pouvoir en Égypte.

* * *

Dès l'avènement, en 648 H./1250, d'al-Mu'izz 'Iybak al-Turkumānī, le premier des Mamluks qui soit devenu Sultan en Égypte, les Bédouins s'unissent contre lui. Contre ce qu'il était, contre ce qu'il représentait. Les Bédouins dénient à un esclave toute possibilité de les commander, eux qui sont de nobles Arabes, certes plus habitués à acheter et à vendre leurs esclaves qu'à obéir à l'un d'eux. L'éthique bédouine avait permis l'acceptation des Ayyubides, étrangers certes, mais hommes libres (5). Cette même éthique rendait impossible la subordination des tribus aux Mamluks, même si ces esclaves, les Mamluks, étaient les maîtres de l'Égypte.

Et donc les tribus s'unissent pour préparer le combat contre les Mamluks. Qui va prendre la tête du mouvement? En Basse-

(1) Ce fut le cas de Mi'bid b. Manāzil, de la tribu Halbā' Mālik, cf. Qalqašandī, *Qalā'id*, p. 59 et Maqrīzī, *al-Bayān*, p. 24 et note 51.

(2) Cf. Maqrīzī, *Ḫiṭaṭ*, t. 3, p. 116 ; A. L. al-Sayed, *op. cit.*, p. 66 et suivantes.

(3) Cf. Maqrīzī, *Sulūk*, t. 1, part 1, p. 189.

(4) Cf. Ibn Khallikān, *Wafayāt*, t. 6 p. 140-141 ; Maqrīzī, *Sulūk*, t. 1, part 1, p. 3 ; Abul Maḥāsin, *Nuğūm*, t. 6, p. 13.

(5) Cf. Maqrīzī, *al-Bayān*, p. 9.

Égypte, les Sunbus (1), ces Bédouins venus assez récemment en Égypte, au temps de Ṣalāḥ ed-Dīn ; et en Haute-Égypte, les Ǧa'āfira, cette tribu que les Ayyubides avaient comblée de leurs faveurs. Autour de ces deux tribus, toutes les autres s'assemblent et se liguent. Les Bédouins se choisissent un chef : le Šarīf Ḥiṣn al-Dīn Ṯa'lab (2), au sujet duquel Qalqašandī (3) rapporte qu'il était indigné du sultanat de ces Mamluks et qu'il aspirait, quant à lui, plus haut, vers ce sultanat. Il déclara donc que les Bédouins étaient les propriétaires du pays, et qu'ils méritaient le pouvoir plus que les Mamluks.

L'affrontement était inévitable.

L'astuce des Mamluks fut d'aller combattre les Bédouins de Haute-Égypte chez eux, et la bataille se déroula à Dahrūṭ (4), et de n'affronter qu'ensuite les Bédouins de Basse-Égypte, à Saḫa (5). Et de ces deux batailles de l'an 651 H./1253, les Bédouins ne sortiront pas vainqueurs. La plus sombre période de leur histoire commençait.

Car les Mamluks ont écrasé les Bédouins. Physiquement, par des massacres impitoyables dont les plus spectaculaires se situent en 701 H./1302, à l'encontre des Bédouins demeurant entre Ǧīza et Qūṣ, et en 754 H./1351, une fois encore parmi les Bédouins du Ṣa'īd. Sans oublier que les Bédouins du Ṣa'īd avaient déjà été sévèrement décimés par la bataille de Dahrūṭ, et que celle de Saḫa avait considérablement amoindri ceux de Basse-Égypte. Quant aux Bédouins qui restaient en vie après ces tueries, le récit (6) monotone des répressions menées par les Mamluks tout au long de leurs sultanats successifs, montre assez pourquoi les tribus dont la vocation de nomades restait suffisamment vivace, prendront le large ; et les Bédouins s'enfonceront dans les déserts, pour échapper à ces Mamluks dont ils ne voulaient pas subir la loi implacable.

(1) Cf. Mac Michael, *History of Arab Tribs in the Sudan*, t. 1, p. 136.

(2) Pour ce personnage, cf. 'Umarī, *Ta'rīf*, p. 188 ; Maqrīzī, *Ḫiṭaṭ*, t. 3, p. 175.

(3) Cf. *Ṣubḥ*, t. 4, p. 68, et *Nihāyat al-'Arab*, Le Caire 1963, p. 139 ; Maqrīzī, *al-Bayān*, p. 38.

(4) Cf. Maqrīzī, *Sulūk*, t. 1, part 2, p. 387.

(5) Cf. Maqrīzī, *al-Bayān*, p. 10.

(6) Cf. A. H. Saleh, *Les Bédouins d'Égypte au Moyen-Age*, p. 279 et suivantes.

Politiquement, la situation pour les Bédouins n'est pas meilleure. Non seulement ils n'ont pas accès aux affaires du pays — « auprès du Sultan, leur rang n'est pas élevé » dira ʿUmarī (1) — mais ils ne peuvent pas non plus accéder à des fonctions publiques de quelque importance, comme celle de *Wālī* par exemple. Et selon Qalqšandī (2), leur prestige est d'une grande faiblesse, et on ne leur accorde aucune importance.

Administrativement enfin, les Mamluks ont pris des mesures propres à asservir les Bédouins, ou encore à les contrôler : les Sultans Mamluks ordonnent par *Taqlīd* (3), accompagné de *Waṣīya* (4), la nomination d'un Émir de tribu, et aussi celle des chefs des Émirs des ʿUrbān, et ils s'occupent également de nommer les titulaires des Mašyaḫas (5) des Bédouins de telle ou telle province. Il est même caractéristique de voir le Sultan nommer, recevoir et combler de cadeaux et d'honneurs (6) un Émir des ʿUrbān dont la tribu est précisément en train de se faire massacrer par une des inévitables *ṯaġrīda* sultaniennes dont les soldats n'ont montré toujours que trop de zèle à appliquer sans relâche la consigne donnée jadis par le premier Sultan Mamluk al-Muʿizz de traiter les Bédouins durement et par la force.

Autant dire que les Bédouins ne reconnaissaient pas toujours, et même pas souvent, ces chefs de Bédouins que le Sultan leur imposait.

Enfin, il n'est pas sans intérêt de remarquer quel statut, d'ordre quasi juridique, les Mamluks assignèrent aux Bédouins : celui d'étrangers (7) à l'Égypte. Les chefs des Bédouins en visite au Caire sont en effet logés par les Mamluks dans la même institution gouvernementale où l'on faisait aussi descendre les ambassadeurs étrangers et les hôtes de marque également

(1) Cf. *Muṣṭalaḥ*, p. 76.
(2) Cf. *Ṣubḥ*, t. 9, p. 254.
(3) Cf. ʿUmarī, *op. cit.*, p. 91.
(4) Cf. ʿUmarī, *op. cit.*, p. 109 et 113.
(5) Cf. A. H. Saleh, *op. cit.*, p. 328.
(6) Qalqašandī donne un exposé détaillé de ces *Ḥilaʿ* et *Tašārīf*, dans *Ḍawʾ*, p. 259-261.
(7) Cf. ʿUmarī, *op. cit.*, p. 83.

étrangers : Dār al-Ḍiyāfa (1). Ils étaient d'ailleurs reçus par le Mihmindār (2).

En d'autres termes, les Mamluks voyaient dans les Bédouins un corps étranger à l'Égypte — étranger autant qu'ils l'étaient eux-mêmes —, mais nantis de ces deux privilèges, d'avoir une filiation généalogique arabe bien établie, et d'être des hommes libres et même nobles. Et leur politique vis-à-vis des Bédouins s'explique en fonction de ce point de vue : les Mamluks entendent conserver sur les Bédouins les avantages que leur ont conférés les victoires militaires qu'ils ont remportées sur les tribus, et ceci par tous les moyens. Y compris en les traitant comme des étrangers, accidentellement ou passagèrement stationnés en Égypte. En fonction de quoi, pour tout ce qui concerne les affaires des Bédouins, les Mamluks ne veulent connaître que les seuls Émirs avec lesquels ils échangent une correspondance, régie par les mêmes dispositions (3) que toute autre correspondance sortant du Dīwān al-'Inšā' (4), et dont les normes et usages spécifiques nous ont valu la quantité d'informations sur les Bédouins donnée par Qalqašandī, au fil des quatorze tomes de *Ṣūbḥ al-'A'šā*.

Moralement enfin, les Mamluks sont responsables d'une certaine image du Bédouin, où n'apparaissent que des caractères négatifs ou peu flatteurs. Ce qui n'était que contestation ou représailles de la part des tribus bédouines, et en rapport avec une certaine politique des Mamluks, a été présenté comme un comportement ordinaire et inévitable des Bédouins. Mais à la lumière de l'histoire de ces Bédouins, pendant les 650 années de leur séjour dans le pays d'Égypte, et avant que n'y arrivent les Mamluks, il n'est plus guère possible d'accepter en bloc cette caricature du Bédouin.

A ceux qui cultivèrent les terrains en friche du Delta et des confins de la Vallée du Nil, qui introduisirent la canne à sucre dans le pays, il est difficile d'imputer une vocation anti-agricole, de saccageurs des campagnes et des cultures.

(1) Cf. Qalqašandī, *Ṣubḥ*, t. 4, p. 32 et 59.
(2) Cf. Qalqašandī, *Ṣubḥ*, t. 12, p. 432-433 et *Ḍaw'*, p. 263 et 344.
(3) Pour ces dispositions, cf. 'Umarī, *op. cit.*, p. 76-80.
(4) Cf. *E.I.*², t. 2, p. 338, article Dīwān al-Inṣḥā', par H. L. Gottschalk.

De ceux qui assumèrent si longtemps la police des pistes, qui guidèrent voyageurs, pèlerins et armées, dans les solitudes du désert, il est saugrenu de dire qu'ils sont congénitalement des voleurs et des brigands.

A ceux que l'on accuse si complaisamment de n'avoir pas de civilisation propre, il est difficile de ne pas reconnaître une éthique spécifique, fondée sur le respect de l'homme, des liens qui l'unissent à sa parenté, de la parole qu'il engage, de sa valeur au combat, de son courage, et de sa soumission totale à Dieu. Il y a là des valeurs morales élevées et incontestables.

Mais en contrepartie, il est exact que les Bédouins d'Égypte ont exercé des vengeances et des représailles implacables. Mais étaient-ils les seuls à considérer la mort comme le seul châtiment possible? Et la sauvagerie n'était-elle pas normale dans tous les règlements de compte d'une époque où la vie demeurait rude pour la plupart des gens? On ne peut pas non plus nier que les Bédouins, comme n'importe quel autre groupement humain, aient comporté dans leurs rangs des fauteurs de troubles. Les Banī Hilāl et les Banī Sulaym arrivés en Égypte dans la suite des Qarmates (1), s'y étaient engagés, dans cette suite, en raison d'un butin qu'ils espéraient bien faire ensemble. Ils seront renvoyés d'Égypte par le *wazīr* al-Yāzūrī précisément pour mettre un terme aux désordres et aux brigandages qu'ils ne cessaient de commettre en Haute-Égypte et dans les déserts avoisinants. Qu'ils aient aussi pillé l'Ifriqiya n'entre plus dans notre propos, mais nous nous devons de faire remarquer que leurs habitudes de violence contrastaient, justement, avec le comportement habituel du reste de la population bédouine stationnée en Égypte.

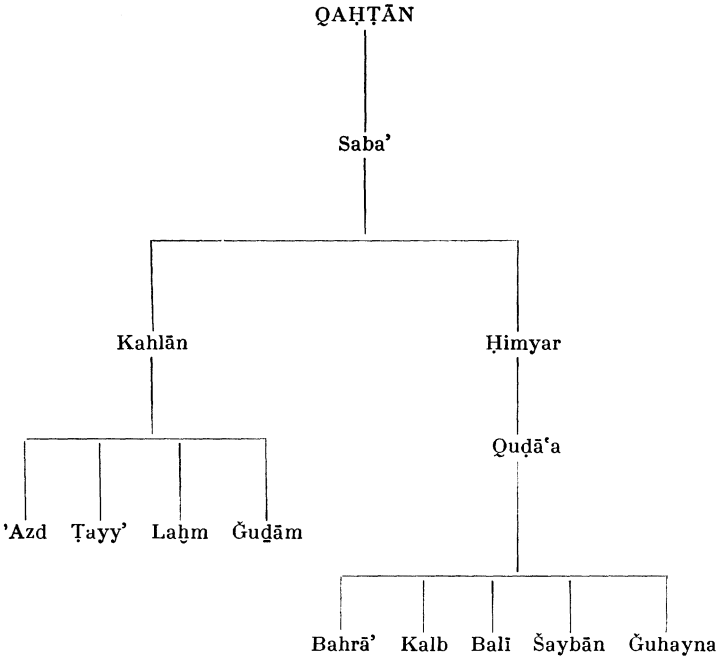
* * *

La politique des Mamluks envers les Bédouins eut une conséquence qu'ils n'avaient certainement pas prévue : les Bédouins se sédentarisèrent, au moins une grande partie d'entre eux. Les Bédouins étaient restés jusque là comme une greffe

(1) Cf. Ṯābit Ibn Sinân, *Ta'rīḫ Aḫbār al-Qarāmiṭah*, éd. S. Zakkâr, Beyrouth 1971, p. 58.

sur le corps de l'Égypte, et leur appartenance au pays était restée superficielle jusqu'à ce que la nécessité de choisir entre un nomadisme persécuté et un sédentarisme toléré, leur fît prendre conscience de ce que l'Égypte les avait fait devenir. Car on ne doit pas oublier que leurs richesses étaient demeurées fabuleuses, sans parler des effets de la sédentarisation de fait, que depuis plus de cinq siècles, la mise en valeur de la terre d'Égypte leur avait fait inconsciemment subir. De Bédouins d'Égypte qu'ils étaient, bon nombre d'entre eux ne se reconnaîtront plus qu'Égyptiens.

Abdel Hamid SALEH
(Genève)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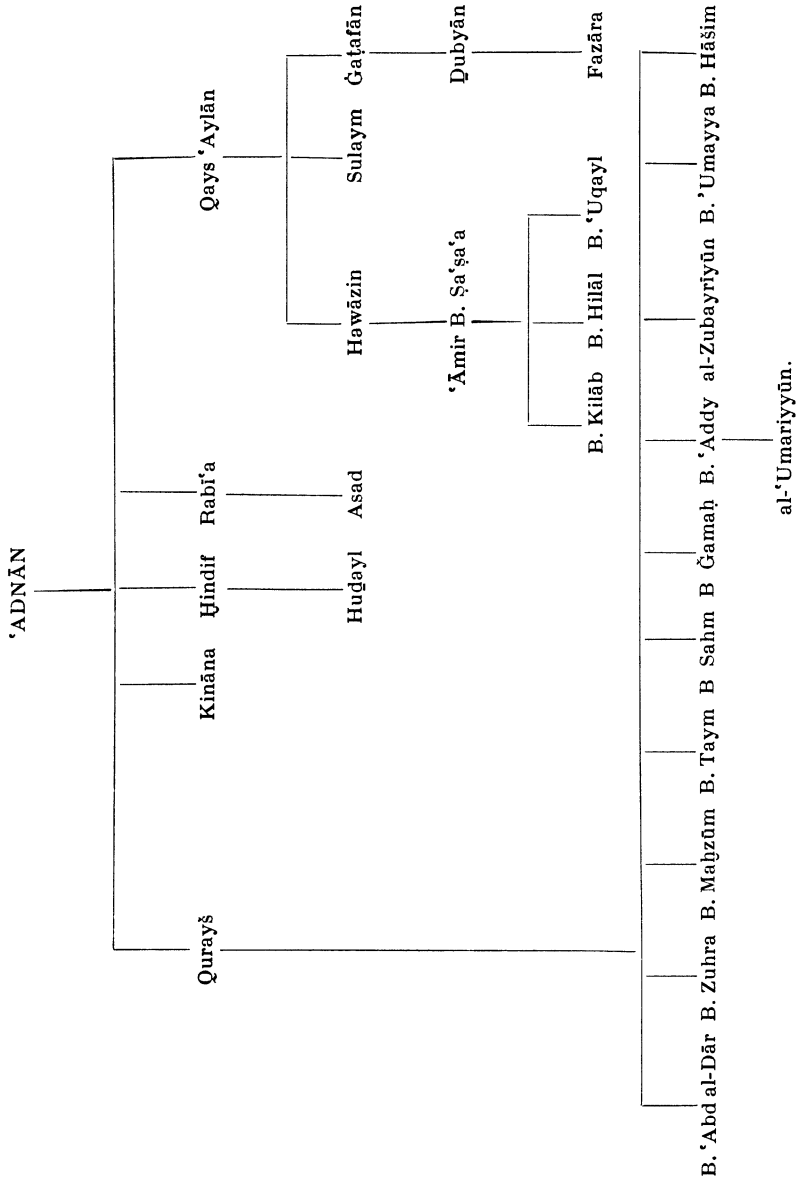
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'Āmir B. Ṣa'ṣa'a
B. Kilāb
B. Hilāl
B. 'Uqayl
Ḏubyān
Fazāra
B. 'Abd al-Dār
B. Zuhra
B. Maḫzūm
B. Taym
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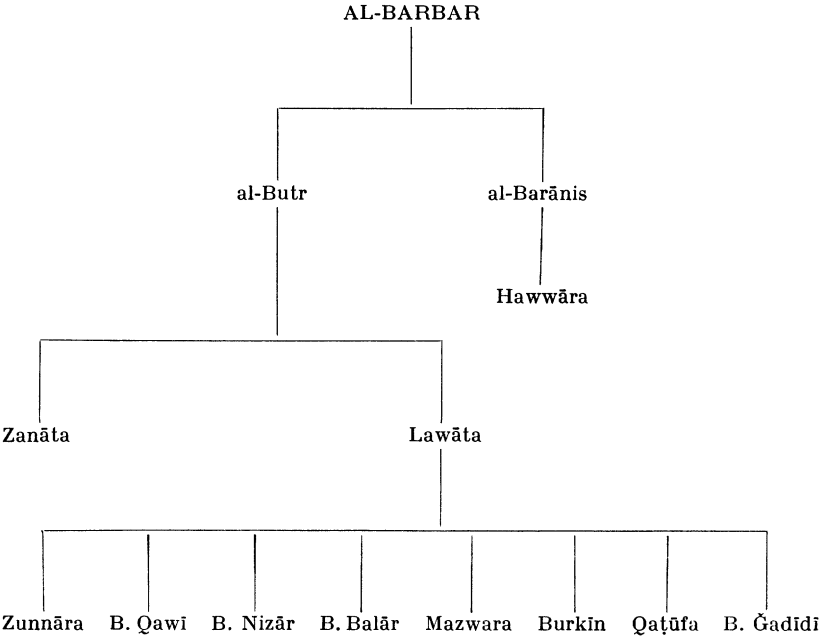
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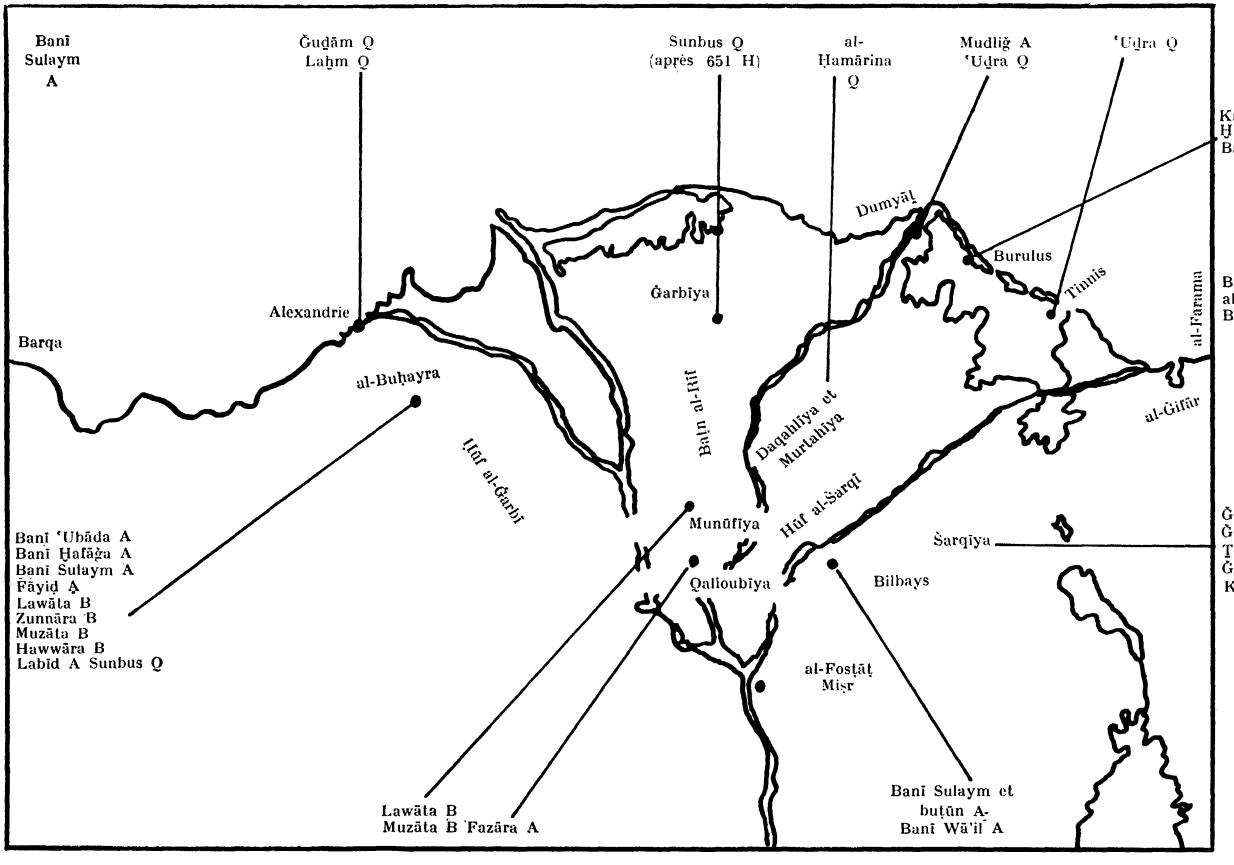
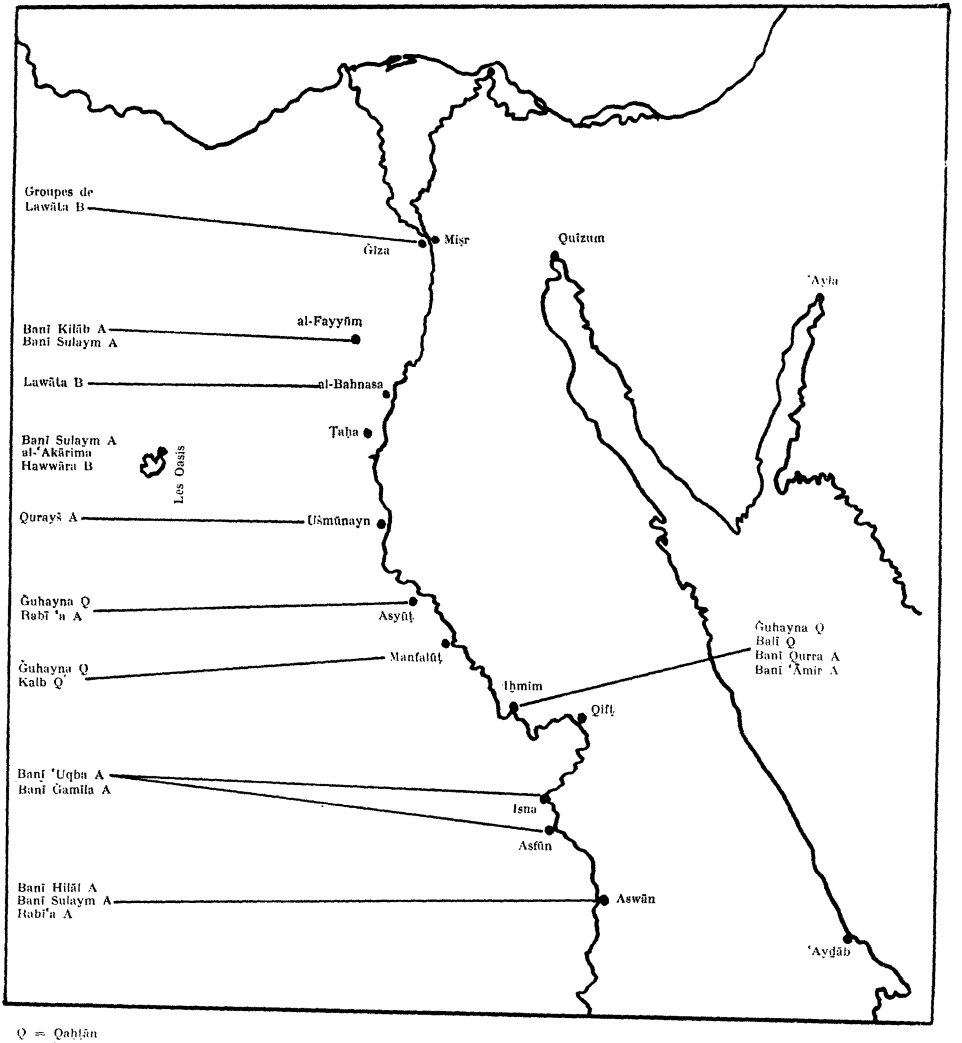


LA BASSE ÉGYPTE

Q = Qaḥṭān
A = ʿAdnān
B = Berbère

LA HAUTE ÉGYPTE



Q = Qaḥṭān
A = 'Adnān
B = Berbère

AN EARLY FĀṬIMID POLITICAL DOCUMENT

It was about the year 347/957 (1), and during the reign of the fourth Fāṭimid Caliph al-Muʿizz li Dīn Allāh (341-365/952-975), that al-Qāḍī al-Nuʿmān b. Muḥammad b. Ḥayyūn (d. 363/974) wrote his most authoritative compendium of Ismāʿīlī Law entitled *Daʿāʾim al-Isālm.* (2) Probably the last in a series of more controversial, more rudimentary legal works composed by al-Nuʿmān from the time of the first Fāṭimid Caliph al-Mahdī bi Allāh (297-322/909-933) onwards, (3) this book represents a clear, neat and well-organized dogmatic exposition of the tenets of Ismāʿili positive Law. The first volume deals with the seven pillars (and hence: "Daʿāʾim") of the *ʿibādāt*, according to the Ismāʿīlīs, namely *al-Walāya*, *al-Ṭahāra*, *al-Ṣalāt*, *al-Zakāt*, *al-Ṣawm*, *al-Ḥajj* and *al-Jihād* and the second with the various *muʿāmalāt* such as sales, oaths, foods, marriage, divorce, thefts, testimonies, and so forth. In all the chapters of his book, al-Nuʿmān treats his subject

(1) For this approximate date, see W. Ivanow, *A Creed of the Fatimids*, Bombay, 1936, p. 6.

(2) Edited by A. A. A. Fyzee in 2 volumes in Cairo, 1951-1961; Second edition of volume 1, 1963. The full title of this book is : *Daʿxāʾim al-Islām wa Dhikr al-Ḥalāl wa al-Ḥarām wa al-Qaḍāya wa al-Aḥkām ʿan Ahl Rasūl Allāh ʿalayhi wa ʿalayhim Afḍal al-Salām.*

(3) See W. Madelung, "The Sources of Ismāʿīlī Law", *Journal of Near Eastern Studies*, 5, n. 1 (1975), p. 29 and n. 2.

matter very systematically, dividing each chapter into sections, and recording the legal decisions pertaining to each section in the form of Qur'ānic citations and ḥadīths transmitted from the Prophet, ʿAlī b. Abī Ṭālib and the five Imāms of the Ismāʿīlīs after ʿAlī. This method is followed very consistently and never is there a digression from the topic at hand. Only in one place in this huge book does al-Nuʿmān depart from this consistency, namely in the "Kitāb al-Jihād," where he inserts towards the middle, a political testament *(ʿahd)* (1) that has absolutely no relation with the topic of *Jihād* nor has it anything to do with legal questions as such. (2) The *ʿahd*, which is about 20 pages in length and constitutes about one third of the "Kitāb al-Jihad", must have been incorporated in the *Daʿāʾim* by al-Nuʿmān himself and not by an extraneous hand, because its inner interpretation appears in al-Nuʿmān's later book *Taʾwīl Daʿāʾim al-Islām*, (3) the book that explains the inner meanings of the *Daʿāʾim*, chapter by chapter, section by section, and the *ʿahd* stands in its appropriate place in the "Kitāb al-Jihād" there. This being the case, and the *ʿahd* itself being an extremely significant document, the present paper will try to examine it thoroughly, and place it within the correct context of its composition in the critical years the Fāṭimids spent in North Africa before they established themselves in Egypt.

(1) The *ʿahd* appears in *Daʿāʾim*, vol. 1, pp. 412-431/350-368; also in the separate edition of "Kitāb al-Jihād", *Kitāb al-Jihād wa al-Muqaddimāt Mustakhraj min Daʿāʾim al-Islām*, ed. A. A. A. Fyzee, Cairo, 1370/1951, pp. 16-35. It was translated into English by Gerard Salinger; see *The Kitāb al-Jihād from al-Qāḍī al-Nuʿmān's Daʿāʾim al-Islām*, translated with an introduction, Columbia Doctoral Dissertation, 1953; also in "A Muslim Mirror for Princes," *Muslim World* 46 (1956) pp. 24-39.

(2) Salinger admitted at one place that the *ʿahd* was an independent, complete literary work which was "out of place in a collection which aims at codifying traditions concerning a matter of Fiqh" (*The Kitāb al-Jihād*, p. IX.) At another place, however, he said that the duties of the rulers to their people was "quite a usual part of the treatment of *Jihād* in books on Sharīʿa. Thus, e.g., al-Māwardī in his *al-Aḥkām al-Sulṭāniyya* has a chapter on this question, where he stresses rather the duties of the subordinates." (*Ibid.*, p. VIII). It is quite evident, though, that the *Daʿāʾim* is not the same kind of book as *al-Aḥkām al-Sulṭāniyya*.

(3) *Taʾwīl Daʿāʾim al-Islām*, vol. 3, ed. by Muḥammad Ḥasan al-Aʿẓamī, Cairo, 1972, pp. 294-295.

*
* *

The main theme which the *ʿahd* deals with is how the ruler should behave during his rule. It is made up of twelve sections, each introduced by an appropriate heading. The whole *ʿahd*, however, can be seen as being made up of three main parts: (i) an introductory emotional exhortation to the addressee, the ruler, to look carefully at his present status, compare it with his previous humble one and remember thereby God's graces upon him. The changes of fortune and death should always be on his mind, and cause him to fear God. This introductory part covers sections 1 and 2. (ii) The main body of the *ʿahd*, giving the ruler quiet advice, in the imperative, on how to behave towards himself and towards the various classes *(ṭabaqāt)* of his state and nation. Here, the general values of justice, humility and kindness to the people are stressed. Specific instructions are given to the ruler on how to choose and treat his soldiers, his judges, his governors, his tax-collectors *(ahl al-Kharāj)*, his secretaries *(al-kuttāb)*, the merchants and the craftsmen and finally the poor and the destitute of the common people. This part covers sections 3-11. (iii) The conclusion, section 12, which sums up the good qualities and practices that the ruler should observe, such as performing his religious duties, and the bad ones which he should avoid, such as pride and bloodshed. This again is presented in the imperative, but it has no emotional coloration.

Who is the author of this *ʿahd*? The text of the *Daʿāʾim* here gives us the most curious answer. The text which introduces the *ʿahd* reads as follows, "*wa ʿan ʿAlī annahu dhakara ʿahdan, faqāla alladhī ḥaddathanāhu: aḥsibuhu min kalāmi ʿAlī, illā annā rawaynā ʿanhu annahu rafaʿahu faqāla: ʿahida rasūlu Allāh ʿahdan kāna fīhī baʿda kalāmin dhakarahu, qāla ṣallā Allāh ʿalayhi wa ʿalā ālihi.....*" (p. 412/350). In translation this reads as follows: "It is related from ʿAlī that he mentioned a testament. The man who narrated it to us said, I assume it is of ʿAlī's words, however we have related that he attributed it to an earlier authority saying, "The

Messenger of God gave a testament, which, after some words that he mentioned, contained...".

In the *Daʿāʾim* text, then, the authorship of the *ʿahd* is not at all certain. The only sure thing about it there is that ʿAlī mentioned, or recited, it. The transmitter of the text, though, assumed that ʿAlī has composed it, but even of that he was not sure, since the transmission added that ʿAlī attributed it to the Prophet. Al-Qāḍī al-Nuʿmān made no reference to any author in the *Taʾwīl Daʿāʾim al-Islām*.

The *Daʿāʾim* text, however, gives us only one recension of the *ʿahd*. Another recension of it appears in al-Sharīf Al-Raḍī's (d. 403/1012) *Nahj al-Balāgha*, (1) the book in which the sayings, speeches, letters and testaments of ʿAlī b. Abī Ṭālib are recorded and whose compilation was finished in 400/1009. (2) The incorporation of the *ʿahd* in the *Nahj* means that al-Raḍī had no hesitation in attributing its composition to ʿAlī. Furthermore, according to al-Raḍī, this *ʿahd* was written by ʿAlī to a specific person and at a date which can be historically ascertained. The *ʿahd* is addressed to Mālik b. al-Ḥārith al-Ashtar al-Nakhaʿī (d. 38/658) on the occasion of his appointment in 38/658 as governor of Egypt to succeed its previous governor Muḥammad b. Abī Bakr. (3) The *Nahj* then presents the full text of the *ʿahd*, the recension there, however, differs immensely from that in the *Daʿāʾim*. Later, Abū al-Maʿālī Ibn Ḥamdūn, (the Baghdādi writer, d. 562/1166), included this *Nahj* recension in his *Tadhkira* (4) and, probably, reproduced it in full, (5) attributing it, like the

(1) *Nahj al-Balāgha*, with the commentary of Muḥammad ʿAbduh, second edition, Dār al-Andalus, Beirut, 1382/1963, pp. 517-540; also Ibn Abī al-Ḥadīd, *Sharḥ Nahj al-Balāgha*, vol. 17, ed. by Muḥammad Abū al-Faḍl Ibrāhīm, Cairo, 1963, pp. 30-130.

(2) *Nahj*, p. 663.

(3) *Nahj*, p. 517; *Sharḥ*, p. 30.

(4) *Tadhkirat Ibn Ḥamdūn*, in *Majmūʿat al-Rasāʾil al-Nādira*, no. 3, first edition, Cairo, 1345/1927, pp. 55-64.

(5) I say "probably" because the printed text of the *Tadhkira*, uncritically edited, stops abruptly in the middle of a sentence in the last section of the *ʿahd* (section 12). Its continuation may have fallen out by mistake at the printer's (or editor's).

Nahj, to ʿAlī on the occasion of the appointment of al-Ashtar. Al-Qalqashandī (d. 821/1418) reproduced this recension from Ibn Ḥamdūn and produced only the opening sections from it in his *Ṣubḥ al-Aʿshā*. (1) Also before Ibn Ḥamdūn, both Miskawayh (d. 429/1037) and Abū ʿAbdallāh al-Quḍāʿī (d. 454/1062) had produced quotations from the *ʿahd*, attributing it to ʿAlī but making no reference to the *ʿahd* itself. (2) Although these quotations are basically found in both the recensions of the *Daʿāʾim* and the *Nahj*, (3) al-Quḍāʿi's quotation follows the *Nahj* recension almost verbatim, and Miskawayh must have also taken his extracts from the *Nahj* one. Thus one can safely assume that, by the beginning of the fifth/eleventh century and under the influence of the *Nahj* recension, the *ʿahd* was unquestionably attributed to ʿAlī, the *Nahj* as a whole having won immediate widespread fame right after its appearance.

The *Nahj* recension, however, must have existed some decades before the beginning of the fifth/eleventh century. This is ascertained by the fact that Abū al-Ḥasan al-ʿĀmīrī, who died in 381/992, reproduces about twenty citations from it, all of which are introduced by "ʿAlī said to al-Ashtar", (4) and adds at one instance "when he sent him to Egypt". (5) In general, the wording of these quotations are closer to the

(1) Al-Qalqashandī, *Ṣubḥ al-Aʿshā fī Ṣināʿat al-Inshā*, vol. 10, Cairo, 1334/1916, pp. 12-15.

(2) Miskawayh, *Al-Ḥikma al-Khālida-Jāwīdān Khirad*, ed. by ʿAbd al-Raḥmān Badawī, 1952, p. 110; al-Quḍāʿī, *Dustūr Maʿālim al-Ḥikam wa Makārim al-Shiyam*, Ms. Yale University, no. Landberg 471, ff. 29a-29b.

(3) Cf. *Daʿāʾim*, p. 417-18/355 and *Nahj*, p. 520; *Daʿāʾim*, p. 419/357 and *Nahj*, pp. 522-523.

(4) Al-ʿĀmirī, *al-Saʿāda wa al-Isʿād*, ed. Mojtaba Minovi, Wiesbaden, 1957-58, pp. 166 (= *Daʿāʾim*, p. 431/368, *Sharḥ*, p. 107); 246; 283; 283 (= *Daʿāʾim*, p. 417/355, *Sharḥ*, p. 36); 284 (= *Daʿāʾim*, p. 421-422/359, *Sharḥ*, p. 52); 285 (= *Sharḥ*, p. 88); 286 (= *Daʿāʾim*, p. 431/368); 292 (= *Daʿāʾim*, p. 431/368, *Sharḥ*, p. 113); 295 (= *Daʿāʾim*, p. 431/368, *Sharḥ*, p. 106); 297 (= *Daʿāʾim*, p. 417/355, *Sharḥ*, p. 34); 308 (= *Daʿāʾim*, p. 417/355, *Sharḥ*, p. 36); 314 (= *Daʿāʾim*, p. 430/366, *Sharḥ*, p. 86); 315 (= *Daʿāʾim*, p. 429-30/366, *Sharḥ*, p. 85); 316 (= *Daʿāʾim*, p. 430/367, *Sharḥ*, p. 86); 326 (= *Daʿāʾim*, p. 431/367, *Sharḥ*, p. 106); 398 (= *Daʿāʾim*, p. 429/365, *Sharḥ*, p. 83); 429 (= *Daʿāʾim*, p. 417/355, *Sharḥ*, p. 36); 440 (= *Daʿāʾim*, p. 424/361, *Sharḥ*, p. 68-9); 442.

(5) *Saʿāda*, p. 429.

wording of the *Nahj* recension than to the *Daʿāʾim* one, (1) and one of them is not found at all in the latter recension but is found in the former one. (2) One has to add, however, that there are three citations in al-ʿĀmirī which do not appear in the *Nahj* recension itself, (3) and that there are some minor textual differences between the sayings in al-ʿĀmirī and those in the *Nahj*. (4) This could have resulted from some oversight by either complier, or by some scribal error in the course of the centuries. However, it may also mean that the two writers had access to slightly differing *riwāyāt* of the *ʿahd*. In conclusion, it appears certain that the *Nahj* recension was in existence, in a unique form, or possibly in several forms, before the year 381/992. One can safely add that this recension was an Irāqī one, for all the early authorities who quoted it, or reproduced it, were either Baghdādis or spent extensive periods of their lives there.

From the above discussion one comes to the conclusion that there are two main prominent textual lines of the *ʿahd* which differ widely. (i) A Maghribī one which appeared in the first half of the fourth/tenth century at the latest, and which is hesitant about attributing the *ʿahd* to ʿAli and, also, to the Prophet. This is the *Daʿāʾim* recension. (5) (ii) An Irāqī one, which appeared in the last two decades of the fourth/tenth century, again at the latest, and which definitely attributes the *ʿahd* to ʿAli. This is the *Nahj* recension.

* * *

That the *ʿahd* could have been composed by the Prophet, is an idea that can easily be discarded. Could it however, have been of ʿAlī's composition?

(1) E.g., *Saʿāda*, p. 284, *Daʿāʾim*, p. 421-22/359, *Sharḥ*, p. 52.

(2) *Saʿāda*, p. 285, *Sharḥ*, p. 88.

(3) *Saʿāda*, pp. 246, 283, 442.

(4) Cf., for example, *Saʿāda*, p. 285 and *Sharḥ*, p. 88.

(5) It is worth mentioning here that when al-Majdūʿ came to describe this section of the *ʿahd* in the *Daʿāʾim*, he did not attribute it at all neither to ʿAli nor to the Prophet; see his *Fihrist al-Kutub wa al-Rasāʾil*, ed. by ʿAlī Naqī Monzavi, Tehran, 1966, p. 25.

The scholars who have been attracted by this *'ahd* have differed widely on 'Alī's authorship; Western scholars have denied its attribution, and Oriental, especially Shī'ite, scholars have affirmed it strongly. Gustav Richter, for one, considered this attribution as "...natürlich eine Fiktion", (1) as did Gerard Salinger, (2) although neither Richter nor Salinger gave any reasons for their opinions. On the other hand, this "'Alid" *'ahd* was a source of pride for the Oriental scholars. Many of them wrote commentaries on it in Arabic, (3) some of them translated it into Persian, (4) some others versified it in Persian, (5) Urdu (6) or Turkish, (7) and one scholar even wrote a book on it. (8) All these works are based on the assumption that since the *'ahd* was in *Nahj al-Balāgha*, the issue of the authenticity of its author, i.e., 'Alī, is not at all questionable. This, of course, need not be the case, for the validity of the attribution to 'Alī of all the pieces in *Nahj al-Balāgha* has been highly questioned several times. (9) What one should do,

(1) G. Richter, *Studien zur Geschichte der älteren arabischen Fürstenspiegel*, Leipziger Semitische Studien, Leipzig, 1932, p. 86.

(2) G. Salinger, *The Kitāb al-Jihād*, p. VIII.

(3) Of these seven are mentioned in the introduction of Tawfīq al-Fakīkī's book *al-Rā'ī wa al-Ra'iyya*, Baghdād, 1382/1962, pp. 8-9. They are the works of Muḥammad 'Abduh (d. 1323 A.H.), al-Mājid al-Baḥrānī (d. ca. 1097 A.H.), Muḥammad Ṣālih al-Rūghanī al-Qazwīnī (of the eleventh century), Muḥammad Bāqir b. Muḥammad Taqī, Sulṭān Muḥammad (d. 1354), al-Ḥusayn al-Hamadhānī, and Badī' Negār. To this list must be added *Kitāb al-Siyāsa al-'Alawiyya* by 'Abd al-Wāḥid b. Aḥmad Al Muẓaffar (Āgha Buzurg, *al-Dharī'a*, vol. 12, n. 1825, p. 272). Naturally, all those who composed commentaries on *Nahj al-Balāgha*, dwelt on it at length.

(4) As did Muḥammad Ḥusayn Jān in his *Dustūr-i Ḥukūmat* (n.p., 1903), 'Alī Akbar al-Barqa'ī al-Qummī in his *Siyāsatnāma-i Ḥaẓrat-i 'Alī* (see *al-Dharī'a*, vol. 12, p. 274) and Pīr Janadī in his book printed in 1355 A.H. (see Fakīkī, p. 9). Also Mirza Ḥabībullāh al-Ḥāshimī al-Kūyi translated it into Persian, section by section, in his voluminous commentary on *Nahj al-Balāgha* entitled *Minhāj al-Barā'a*, vol. 20, Tehran, 1389, pp. 162-324.

(5) As did Mīrzā Jahāngīr Khān al-Ḥusaynī in his *Siyāsatnama* (see *al-Dharī'a*, vol. 12, p. 273) and Waqārī al-Waṣṣāl al-Shīrāzī, the poet (d. 1274) (see Fakīkī, p. 8).

(6) This is what Muḥammad Rizā al-Zangīfūri did in his *Siyāsat-i 'Alawiyya* which was printed in India (see *al-Dharī'a*, vol 12, p. 272.)

(7) This was undertaken by Muḥammad Jalāl al-Dīn (see Fakīkī, p. 9).

(8) This is al-Fakīkī's book *al-Rā'ī wa al-Ra'iyya* mentioned above.

(9) See Iḥsān 'Abbās, *al-Sharīf al-Raḍī*, Beirut, 1959, pp. 52-58.

however, concerning this particular *'ahd*, is to look for external evidence that confirms or denies its attribution to 'Alī, then to look for the same evidence internally, namely by thoroughly and carefully examining the contents of the *'ahd* in its two recensions.

As the *'ahd* was supposedly given by 'Alī to al-Ashtar on a particular historical occasion in the year 38/658, references to it could very possibly appear in historical works which deal with the period around that year. Such references however, are not found, even though most of the historical works were written by Shī'īs. Ibn A'tham does not mention the appointment of Al-Ashtar at all, al-Mas'ūdī makes a short reference to it (1) and al-Ya'qūbī records only 'Alī's short letter to the people of Egypt, the contents of which affirm the appointment of al-Ashtar, praise his abilities and order obedience to his rule. (2) This same letter was recorded in a longer and more elaborate recension by al-Ṭabarī on the authority of Abū Mikhnaf, (3) and later was taken over by al-Sharīf al-Raḍī and recorded in *Nahj al-Balāgha.* (4) More interesting, however, is the address of 'Alī to al-Ashtar on this occasion which is recorded in Ṭabarī, again on the authority of Abū Mikhnaf. Here, the *riwāya* says that when 'Alī appointed al-Ashtar to be governor of Egypt and explained to him the reasons for his appointment, he told him, "There is no one for it, i.e. Egypt, but you; go... for if I do not give you any advice it is because I am satisfied with your judgement *(fa innī in lam ūṣika iktafaytu bi-ra'yika).* So ask God for his help in that which burdens you, mix harshness with leniency, be gentle whenever gentleness is more appropriate and be harsh when there is no substitute for harshness." (5)

(1) Al-Mas'ūdī, *Murūj al-Dhahab,* vol. 3, ed. by Charles Pellat, Beirut, 1970, p. 161.

(2) Al-Ya'qūbī, *Tārīkh al-Ya'qūbī,* vol. 2, Beirut, 1960, p. 194.

(3) Al-Ṭabarī, *Tārikh al-Ṭabarī,* s.l., European edition, p. 3394, vol. 5, ed. of Abū al-Faḍl Ibrāhīm, Cairo, 1963, p. 96.

(4) *Nahj,* pp. 495-496.

(5) *Tārīkh al-Ṭabarī,* s.l., p. 3393, vol. 5, p. 95.

This "oral testament" is extremely significant because it clearly points out that ʿAlī did *not* give al-Ashtar any definite or detailed advice on how to deal with the situation as governor of Egypt, and that he only advised a general line of policy whose text is reproduced in two lines. This definitely means that ʿAlī did *not* address to al-Ashtar the *ʿahd* under discussion. For that reason, in all probability, al-Sharīf al-Raḍī did *not* record this "oral testament" in the *Nahj*, although he surely knew it (1) and was keen on recording all of ʿAlī's sayings in his book. It is to be added here, that there no need to doubt this *riwāya*, for Abū Mikhnaf was not without Shīʿī tendencies and his *riwāyas* represent the ʿIrāqī tradition of the second/eighth century. So up to Abū Mikhnaf's time (d. ca. 157/774) the *ʿahd* was not yet in existence in the ʿIrāqī tradition. (2)

Consulting the *adab* works in which there is a special tendency to record the political sayings and testaments of Muslim, Persian, Greek and Indian rulers does not yield any better fruits concerning the authentication of the authorship of the *ʿahd*. There is not a single book that has come down to us in this genre, of which I am aware, that has reproduced the *ʿahd*, presented quotations from it or even referred to it, unless of course the work was compiled at about the same time as *Nahj al-Balāgha*, or after it, as we have seen with the books of al-ʿĀmirī, Miskawayh, al-Quḍāʿi, Ibn Ḥamdūn and al-Qalqashandī.

The same results are given when one consults the "technical" sources which record the various testaments of the Muslim caliphs and kings as landmarks in the history of documentary Arabic prose. Al-Qalqashandī's *Ṣubḥ al-Aʿshā fī Ṣināʿat al-Inshā* is a typical, comprehensive work of this genre. It is noteworthy that he does *not* mention the *ʿahd* among the testaments of the *Rāshidūn* Caliphs (3) but quotes its intro-

(1) See above, p. 78, n. 4.

(2) For other sayings of ʿAlī on this occasion with al-Ashtar which appear in *Nahj al-Balāgha*, see *Nahj*, pp. 452-453, 547-549.

(3) See *Ṣubḥ*, vol. 10, pp. 192-194.

ductory sections *on the authority of Ibn Ḥamdūn* as a "method" *(ṭarīqa)* of writing testaments. (1)

Within the *Nahj al-Balāgha* itself, the *ʿahd* stands out very conspicuously. According to al-Raḍī himself, it is "'Alī's" longest testament and the one which comprehends the greatest number of virtues *(aṭwaluhā wa ajmaʿuhā li al-maḥāsin).* (2) With few exceptions, all of the other testaments attributed to ʿAlī there are either theoretical but very short, (3) or very practical, written on specific occasions to deal with specific issues at hand. (4) The only testament which is both lengthy and theoretical at the same time is ʿAlī's testament to his son al-Ḥasan. (5) However, this testament lacks the organization and comprehensiveness found in the *ʿahd* and is full of repititions, digressions and overlapping topics and sentences. The very occasion of its composition has been the subject of controversy among some Shīʿite compilers, (6) a factor which casts doubt on its authenticity much like the *ʿahd* under study.

From the above, we reach the conclusion that there is no strong external evidence to authenticate the attribution of the *ʿahd* to ʿAlī. Indeed, consulting historical, literary and technical prose sources and comparing the *ʿahd* to other testaments attributed to ʿAlī in the *Nahj al-Balāgha* weaken this attribution to the point of almost entirely denying it.

* * *

Let us now look for internal evidence concerning the composition of the *ʿahd* from within its text.

(1) See *ibid.*, pp. 12-15 and p. 75, n. 1 above.

(2) *Nahj*, p. 517; *Sharḥ*, p. 30.

(3) See for example *Nahj*, pp. 445-446, (4 lines), 451 (7 lines), 463-464 (1 page), 461-463 (2 pages), 465-467 (2 pages), 556-558 (2 pages).

(4) See for example *ibid.*, pp. 453, 457, 457, 497, 497-499, 500-501, 505-510.

(5) *Nahj*, pp. 473-490.

(6) It is said to have been given from ʿAlī to his son Muḥammad b. al-Ḥanafiyya; *Waṣiyyat ʿAlī b. Abī Ṭālib ilā Waladihi Muḥammad ibn al-Ḥanafiyya*, Ms. Aḥmad III, Istanbul, no. 2375; ʿInāyat Allāh al-Qahbā'ī, *Majmaʿ al-Rijāl*, vol. 1, Iṣfahān, 1386, p. 233; Ibn Shahrashūb, *Maʿālim al-ʿUlamā'*, Najaf, 1380/1961, p. 27. Also see Wadād al-Qāḍī, *al-Kaysāniyya fī al-Tārīkh wa al-Adab*, Beirut, 1974, pp. 151-153.

The first step to be undertaken is comparison of the two recensions of the *ʿahd*, for the differences between them are neither few nor insignificant. This comparison must be done extremely thoroughly, otherwise one may reach erroneous judgements, based on hasty generalizations such as "in the *Nahj* we have an abridgement of the *Daʿāʾim* version", (1) or "the differences between the two versions are mostly of a stylistic nature and the material differences are too few for a comparison to yield useful results." (2)

Let me first make clear that there is absolutely no difference in inner structure, in the succession of paragraphs, between the two recensions and that almost half of the text of the *ʿahd* is identical in both of them. The other half contains numerous textual differences, including changes in words and omission or addition of whole paragraphs or lines. Only changes in words which are significant will be discussed here; the others which are not, will not be dwelt upon. On the whole, the additions and omissions are almost all very significant and must be analyzed in detail. For purposes of convenience, I will take the *Daʿāʾim* recension as the basic recension. The *additions* of the *Nahj* recension to the base are two in kind:

(i) The *Nahj* recension has numerous quotations from the Qur'ān and the Ḥadīth of the Prophet, whereas the *Daʿāʾim* recension includes no such references. (3) It has also additional references to Islam as a religion that was captive in the hands of evil people (4) and refers to God as the Judge of people who commit bloodshed on the Day of Judgement. (5) References to the Islamic lands and history are also added. (6) Again the

(1) Salinger, *The Kitāb al-Jihād*, p. XIII.
(2) *Ibid.*, p. XIV.
(3) See *Sharḥ*, pp. 52, 113 and 88, 89.
(4) *Ibid.*, p. 59.
(5) *Ibid.*, p. 111.
(6) *Ibid.*, p. 48 wherein the *ahl al-Kharāj* mentioned in the *Daʿāʾim* text are specified as being composed of the *Dhimmīs* and the Muslims; p. 68 wherein the addressee is advised to choose his judges from among those who are well versed in Islam; p. 47 wherein the first Muslims are mentioned as being the most excellent models of behavior, in contrast to the general word "the righteous" *(al-ṣāliḥūn)* used in the *Daʿāʾim*, p. 419/356. See also, *Sharḥ*, p. 106.

Nahj text has several additions stressing the necessity of referring to the Book, the Prophet and the Sunna, (1) all of which are not in the *Da'ā'im* recension. Some Islamic legal terminologies and questions are added too, such as the question of the punishment of intentional murder being "*qawad al-badan*" (2) and such as the conditions that the imām should observe in leading the people in prayer. (3) The prohibition of monopoly is mentioned in both recensions, but the *Nahj* recension adds, "for the Prophet had prohibited it." (4)

It is clear from these examples that the writer of the *Nahj* recension wanted to imbue the *'ahd* with a more defined Islamic identification than can be sensed from the *Da'ā'im* recension.

(ii) The *Nahj* recension adds a number of references to incidents in the life of 'Alī, which are narrated in the first person. Examples of this are, "I asked the Messenger of Allāh when he sent me to Yemen, how do I lead the people there in prayer?..." (5) and, "I heard the Messenger of Allāh say on more than one occasion...". (6) At one instance, this recension presents a reference to 'Alī and al-Ashtar: "So you behave as *you saw us* behave." (7) This also is insinuated in the concluding lines of the *'ahd* in the *Nahj*, where "'Alī" hopes that his life and that of al-Ashtar's should end in martyrdom, (8) a thing which betrays anachronism. One must also add that the *Nahj* recension added towards its beginning the phrase "yā Mālik", (9) to define the supposed addressee, Mālik al-Ashtar.

Altogether, then, the additions of the *Nahj* recension show a clear and systematic effort to Islamize the *'ahd* and assure its

(1) See *Sharḥ*, pp. 48, 52, 114; also p. 51 to be compared with *Da'ā'im*, p. 420/358.
(2) *Sharḥ*, p. 111.
(3) *Ibid.*, p. 89; see also the reference to the legal duties of the Muslims being a function of the *body* as well as the soul.
(4) *Ibid.*, p. 83.
(5) *Ibid.*, p. 89.
(6) *Ibid.*, p. 88; see also p. 48 where "'Alī" mentions a testament in his possession.
(7) *Ibid.*, p. 114.
(8) *Ibid.*, p. 117.
(9) *Ibid.*, p. 30.

attribution to ʿAlī. On the other hand, the *omissions* of the *Nahj* recension, as well as some *changes*, done to the base recension, attempt a more sophisticated presentation, but do not have so different a purpose than the purpose of the additions to the *Daʿāʾim* recension.

(i) One of the most striking omissions in the *Nahj* is the text that gives the addressee advice on how to handle a specific question in the field of land-tax *(al-Kharāj)*. In the *Daʿāʾim* recension the question is treated in detail in a one page discussion. (1) The question presented is whether it is good or bad for the ruler to allow his tax-collectors to postpone the payment of the assumed land revenue collected from the people for one year, if the yearly season did not yield good crops. The answer given in the *Daʿāʾim* is a definite yes, for what would it avail the ruler if he forces the people to pay their tribute then dies or is absent from his rule? He would have crushed the people, destroyed the lands, collected income for some other ruler and lost his reputation. If he, on the other hand, was lenient and permitted the postponement of the payments, he would have helped the people, caused the land to flourish and gained a fine reputation. Furthermore, in the future God will reward him for such actions, and there is nothing as good for the ruler as to have a good reputation.

Why was this section omitted from the *Nahj* recension? It is because, in my opinion, it indicates that the *ʿahd* was not ʿAlī's, since this question was not an issue in his time. The first reference in our sources to this question dates from the period of Sulaymān b. ʿAbd al-Malik (95-99/713-717) (2) and ʿUmar b. ʿAbd al-ʿAzīz (99-101/717-719) (3) and the land tax was actually postponed in the days of Abū Jaʿfar al-Manṣūr (136-158/753-774), (4) but soon went beyond limits so that

(1) *Daʿāʾim*, pp. 426-427/363-364.

(2) Al-Jahshiyārī, *al-Wuzarāʾ wa al-Kuttāb*, ed. by Saqqā, Ibyārī and Shalabī, Cairo, 1938, pp. 51-52.

(3) Abū Yūsuf, *Kitāb al-Kharāj*, Cairo, second edition, 1352, p. 86.

(4) Al-Jahshiyārī, *op. cit.*, p. 93; and see ʿAbd al-ʿAzīz al-Dūri, *al-Nuẓum al-Islāmiyya*, Baghdād, 1950, p. 163.

Abū Yūsuf (d. 181/797), the Grand Judge of Hārūn al-Rashīd (178-193/794-808) was forced to produce a *fatwā* prohibiting it. (1) This whole question had a Persian precedent as is indicated by some early translation from the Persian. (2)

(ii) In the same way one can plausibly explain why the *Nahj* recension omitted some parts of the section on the secretaries of the state *(al-kuttāb)*. In the *Da'ā'im* recension, this group of people is considered as being constituted of various "sub-classes" *(manāzil)*, each having different capacities, functions and rights. (3) The highest class of the *kuttāb* consists of those who can be employed by the ruler to write his special, secret messages, next come those who can write the more general letters of the ruler, and finally those who can record the matters pertaining to his various departments such as that of taxation and the army. (4) Every sub-class of these groups has a head *(ra'īs)* who must have very special qualifications. (5) Also, the *kuttāb* appear in the *Da'ā'im* recension as a clear section, or class, of the people who are characterized by pride and haughtiness, and the tendency to be impatient and irritable when people petitioned specialized services. (6) All this is dropped from the *Nahj* recension simply because the *kuttāb* were not a clear class during the days of 'Alī, nor were there clear distinctions between their qualifications and functions. The *kuttāb* emerged as a "class" quite a few decades later, the first treatise to appear on them as a separate group, as far as is known, is the one of 'Abd al-Ḥamīd al-Kātib, composed towards the end of the Umayyad period. (7)

(iii) Another idea which the *Nahj* recension omitted was that the differing opinions of the various judges *(quḍāt)* of

(1) *Kitāb al-Kharāj*, p. 86 and *al-Nuẓum*, p. 163.

(2) See Ibn al-Muqqaffa''s translation of Anūshirwān's autobiography in M. Muḥammadi, *al-Tarjama wa al-Naql 'an al-Fārisiyya*, Beirut, 1964, p. 51; also *al-Nuẓum*, p. 111.

(3) *Da'ā'im*, p. 427/364.

(4) *Ibid.*, p. 427-428/364-365.

(5) *Ibid.*, p. 428/365.

(6) *Ibid.*, p. 428/365.

(7) Muḥammad Kurd 'Alī, editor, *Rasā'il al-Bulaghā'*, fourth edition, Cairo, 1374/1954, pp. 222-226.

the state concerning specific legal questions should be brought for decision to the *imām* (i.e. the Caliph) who would have the final say. (1) As far as we know, the first writer to suggest this idea was Ibn al-Muqaffa' in his "Risālat al-Ṣaḥāba", addressed to the 'Abbāsid Caliph al-Manṣūr. (2) The issue as such was not known during the time of 'Alī, as Islamic jurisprudence was still in a very early stage of development. Thus it was important that this idea should be omitted from the *Nahj* recension to support its attribution to 'Alī.

(iv) Some significant minor omissions and changes in technical terms were also undertaken in the *Nahj* recension to make it sound more convincingly of 'Alī's compilation. Whenever the words *mulūk* (kings) or *umarā'* (princes, rulers), (both in the singular and plural) are used in the *Da'ā'im*, they are either omitted or changed in the *Nahj* to "*anta*" (you) or to "*wulāt*" (governors). (3) The *Nahj* recension may have altered the text to support that the '*ahd* was addressed to a *wālī*, al-Ashtar. These alterations were very carefully and systematically followed throughout the '*ahd*, so much so that nowhere in the *Nahj* is found the words *umarā'* or *mulūk*.

The writer of the *Nahj* recension, however, committed one basic slip. As the institution of the *wizāra* was not known during 'Alī's time, he tried to avoid reference to it whenever it appeared in the *Da'ā'im* recension. (4) Only at one place did he keep it, (5) probably mistaking the word "*wuzarā'*" as a technical term in the context for the same word with its mere lexical meaning. (6)

(1) *Da'ā'im*, p. 423/360.

(2) *Rasā'il al-Bulaghā'*, pp. 126-127.

(3) Cf. *Da'ā'im*, p. 419/355 with *Sharḥ*, p. 48; 420/357 with 49; 415/353 with 30. See also the following pages in *Da'ā'im*: 412/350, 415/353 and 415/354 where these words are mentioned but are dropped from the *Nahj* recension in the corresponding sections.

(4) See *Da'ā'im*, p. 418/356.

(5) *Da'ā'im*, p. 418/355, *Sharḥ*, p. 42; it reads as follows: "The worst *wazīr* you can have is one who was a *wazīr* to the evil people (i.e. rulers) before you."

(6) This word, meaning assistants, appears either in the singular or in the plural in the Qur'ān (20:29, 25:35) and in the historical incident of the Saqīfa (see *Tārīkh al-Ṭabarī*, s.l., p. 1819).

The famous ḥadīth attributed to the Prophet at Ghadīr Khumm likening his

There are other things about the *ʿahd* which make the researcher quite uneasy about its attribution to ʿAlī. It is too long to be likely to be composed in ʿAlī's time. All the testaments of the early Muslim Caliphs, including ʿAlī's, are short, being made up of a few lines in most cases and certainly not going beyond two pages. It is also too comprehensive, well-organized and well-presented to belong to that early period in the history of Arabic political thought and Arabic technical prose. The fundamental vision presented of the ruler, the state and the society as complementary units on the political level, is a highly sophisticated one, which appears to have no counterpart in any literary product of the time. Its structure and organization (Introduction - the duties of the ruler towards himself in general - the "classes" of people - the treatment of each class separately in separate sections: the soldiers, the judges, the governors, the land-tax collectors, the secretaries, the craftsmen and merchants, the common poor people - conclusion) is just too neat, clear and well-organized from the literary point of view to belong to an early era of Arabic prose. The other testaments attributed to ʿAlī in the *Nahj al-Balāgha* which have some degree of length and diversity in political vision are very confused in organization and presentation (1) and give one the sense of spontaneity rather than careful "workmanship" *(ṣanʿa)*.

Again, the *ʿahd* contains a number of minor political ideas which are very sophisticated and point out to a political experience quite different from that of ʿAlī's, and hence their being omitted in some instances. Examples of these are the idea of sending people to spy on the soldiers, (2), governors (3) and secretaries; (4) the idea of the great power latent in the

relation to ʿAlī to that of Moses and his brother Aaron is significantly enough based on the above mentioned Qur'ānic verse, however without the mention of the word *wazīr*.

(1) See, for example, his testament to al-Ḥārith al-Hamdānī, in *Nahj*, pp. 556-558 and also the testament attributed to him addressing his son al-Ḥasan, *ibid.*, pp. 473-490, and *supra*, p. 80, n. 5-6.

(2) *Daʿāʾim*, p. 421/359; it is omitted from the *Nahj* recension.

(3) *Ibid.*, p. 424/361, *Sharḥ*, p. 69.

(4) *Daʿāʾim*, p. 428/365; it is omitted from the *Nahj* recension.

common people; (1) the idea that the ruler should treat judges in honour, elevating them in the eyes of the people so that no vices would be attributed to them in front of the ruler; (2) the idea that the ruler's good treatment of the governors is a strong point for the ruler against the governors if the latter depart from him and revolt against him; (3) the idea of compensating the family of the soldier who dies in battle; (4) the idea that the purpose for paying the soldiers, the judges and the governors is that they should not be dependent on any other than the ruler, (5) and so become corrupted. Such ideas and many others, I think, tell clearly that the *ʿahd* under consideration could not have been written by ʿAlī or even in his time.

No matter how diligently and carefully the writer of the *Nahj* recension tried through additions, omissions and changes, to make the *ʿahd* appear to be ʿAlī's composition, he was not convincing in achieving his goal. The *ʿahd* in the conclusion is a complete and sophisticated piece of political literature which belongs to the genre of "mirrors for princes," in which a ruler is given advice on how best to conduct the affairs of the state. The first samples of this genre in Arabic-Islamic literature appear in the first few decades of the second/eighth century, i.e. in the last decades of Umayyad rule. They appeared almost simultaneously in time in two main lines: the line of translation from the Greek and the Persian, and the line of original compilation, the translations having preceded the original writings by a decade or so.

It is possible to trace the main translations and original writings from that time until the time of the appearance of the *ʿahd* in the early decades of the fourth/tenth century. This results in the following: The earliest translations we have are those of the pseudo-Aristotelian epistles to Alexander the Great, translated during the time of the Umayyad Caliph

(1) *Ibid.*, p. 417/355, *Sharḥ*, p. 35.
(2) *Daʿāʾim*, p. 423/360, *Sharḥ*, p. 59.
(3) *Daʿāʾim*, p. 424/361, *Sharḥ*, p. 69.
(4) *Daʿāʾim*, p. 422/359; it is omitted from the *Nahj* recension.
(5) *Daʿāʾim*, pp. 421/358, 423/360, 424/361; *Sharḥ*, pp. 51, 59, 69.

Hishām b. ʿAbd al-Malik (105-125/723-742) possibly by his secretary Sālim Abū al-ʿAlāʾ. (1) Next in time appeared the various translations from the Persian done by Ibn al-Muqaffaʿ such as *Kitāb al-Tāj fī Sīrat Anūshirwān*, *Khudāynāme*, *Āyīnnāme*, *Kitāb Mazdak*. (2) At about the same period *ʿAhd Ardashīr* must have been translated too, (3) and in the beginning of the fourth/tenth century we get the translation of Ibn al-Dāya (d. 340/951) of three Pseudo-Platonic testaments. (4)

The earliest original Arabic compilation of the genre of "mirrors for princes" is ʿAbd al-Ḥamīd al-Kātib's "Risāla fī Naṣiḥat Waliyy al-ʿAhd," written for Marwān b. Muḥammad, (d. 132/750), the last of the Umayyad caliphs. (5) It was followed later by Ibn al-Muqaffaʿ's "Risālat al-Ṣaḥāba," addressed to the second ʿAbbāsid Caliph al-Manṣūr. (6) Traces of this genere of writing appears in Abū Yūsuf's introduction to the *Kitāb al-Kharāj*, (7) but one does not find a complete "mirror" there. The next complete work was produced about 206/821, the year in which Ṭāhir b. al-Ḥusayn (d. 207/822), the Governor of Khurāsān by appointment of the ʿAbbāsid Caliph al-Maʾmūn, wrote his testament to his son ʿAbdallāh b. Ṭāhir (d. 230/844). (8)

(1) See Louis Sheikho, "Atharān li Aristū al-Faylasūf fī al-ʿArabiyya," in *Maqālat Falsafiyya Qadīma li Baʿḍ Mashāhīr Falāsifat al-ʿArab*, Beirut, 1911, pp. 35-49; MS Köprülü, no. 1608, folios 78b-119a, 127a-138a, 182a-191a; M. Grignaschi, "Le Roman épistolaire classique conservé dans la version arabe de Sālim Abū-l-ʿAlāʾ," *Le Museon* 80 (1967), pp. 211-264. Also by Grignaschi, "Les Rasāʾil Aristāṭālīsa ilā-l-Iskandar' de Sālim Abū-l-ʿAlāʾ et l'activité culturelle à l'époque Omayyade," *Bulletin d'Études Orientales* (Institut Français de Damas) 10 (1965-66) pp. 7-83. See also D. Gutas, *Greek Wisdom Literature in Arabic Translation*, Doctoral Dissertation, Yale University, 1974, pp. 47-48, 444-445, and Iḥsān ʿAbbās, *ʿAhd Ardashīr*, Beirut, 1967, p. 34.

(2) Ibn al-Nadīm, *al-Fihrist*, ed. by G. Flügel, offset edition, Beirut, 1964, p. 118. Also see Muḥammadī, *op. cit.*, pp. 28-119, 156-197, Erwin Rosenthal, *Political Thought in Medieval Islam*, Cambridge, 1958, pp. 69-76.

(3) *ʿAhd Ardashīr*, pp. 33-34.

(4) See ʿAbd al-Raḥmān Badawī, *al-Uṣūl al-Yūnaniyya li al-Naẓariyya al-Siyāsiyya fī al-Islām*, Cairo, 1954, and ʿUmar al-Mālikī, *al-Falsafa al-Siyāsiyya ʿind al-ʿArab*, Algiers, 1971.

(5) *Rasāʾil al-Bulaghāʾ*, pp. 173-210.

(6) *Ibid.*, pp. 117-134.

(7) *Kitāb al-Kharāj*, pp. 3-8.

(8) The text of the testament is in Ibn Ṭayfūr, *Kitāb Baghdād*, Cairo, 1949, pp. 26-35; al-Ṭabarī, *Tārīkh al-Ṭabarī*, s. 3, pp. 1046-1062 (under the year 206), Ibn Khaldūn, *Muqaddima*, Beirut, 1886, pp. 265-271.

By considering the *'ahd* as a "mirror for a prince," and placing it within the above-mentioned works of the genre, the following conclusions can be reached:

1. The *'ahd* cannot be one of the translated testaments, whose original author was intentionally or unintentionally dropped and then replaced by 'Alī's name. This is definitely so for many reasons, some of which follow:

(i) The *'ahd* does not exist in any of the translated works from the Greek and the Persian, as far as my research informed me.

(ii) It is not usual or customary to attribute a testament to a Muslim writer when its author is a Persian or a Greek, because of the pride the translators found in their translations from foreign languages. Even if the *'ahd* were originally translated by a translator and then taken over by another who forged 'Alī's name and later circulated it, this would not have escaped the attention nor the knowledge of Abū al-Ḥasan al-'Āmirī, the philosopher. As is clearly portrayed in his book, *al-Sa'āda wa al-Is'ād*, al-'Āmirī was an extremely well-informed scholar about Greek and Persian translations of political literature as well as about the original writings on politics in Arabic. Nevertheless, whenever he produced a quotation from the *'ahd*, he attributed it to 'Alī, never making any remark to the contrary. (1)

(iii) The *'ahd* has a strong Islamic coloration, even in its *Da'ā'im* recension. True, the translations from the Greek and Persian are not totally lacking in this color, as they were more or less "islamized" by their Muslim translators. The Islamic color in the translations, however, is sporadic rather than continuous and is certainly not supportive of almost every piece of advice, as is the case with the *'ahd*. It is indeed worth noting here, that the Shī'ī, nevertheless the shrewd, Mu'tazili commentator on *Nahj al-Balāgha*, Ibn Abī al-Ḥadīd (d. 655/1257), when commenting upon this *'ahd*, incorporated at different places in his commentary one of the pseudo-

(1) See above p. 75, nº 4-5, p. 76, nº 1-4.

Aristotelian epistles to Alexander (1) as well as four long testaments of various Sassanid kings (2) and pointed out the similarities between them and some sections in the *ʿahd*. At the end of his commentary, however, he said that he had reproduced the non-ʿAlid testaments to be juxtaposed to ʿAlī's *ʿahd* so that one could benefit from them for matters relating to this world and to religion as well, for the advice of ʿAlī shows a greater concern for religion, while that of the others is more concerned with the matters of the world.

(iv) In the translated political literature, both Greek and Persian, there is a fundamental political idea that the ruler and the state, in one way or another, are in the service of the nobility not the common people. (3) This idea is totally reversed in the *ʿahd*; indeed, the text of the *ʿahd* has a long paragraph in which it is explained why the ruler should seek the satisfaction of the common people *(al-ʿāmma)* and not that of the nobility *(al-khāṣṣa)*. (4)

(v) One does find in the *ʿahd* many ideas which have a counterpart in the translated literature. These similarities, however, need not be too significant; indeed some are totally insignificant, as they are based on general, broad political values that should be cherished by the ruler, such as justice, kindness to the people..., etc. The more significant of those similarities concern details of values and situations, examples are the necessity of the ruler's sending spies on the various state employees; (5) the ruler's kindness to the poor and the destitute, as by holding conferences to hear their grievances; (6)

(1) *Sharḥ*, pp. 55-58.

(2) *Ibid.*, pp. 74-75, 81-83, 92-93, 124-130.

(3) See examples of that in *Maqālāt Falsafiyya*, pp. 42-44, 46-49, *ʿAhd Ardashīr*, pp. 52-54, 57-58, 59-60, 70, Muḥammadī, *op. cit.*, pp. 69, 115, 194-195. See also Usāma b. Munqidh, *Lubāb al-Ādāb*, ed. by Aḥmad Shākir, Cairo, 1935, pp. 52-53, 456.

(4) *Daʿāʾim*, p. 417/355, *Sharḥ*, pp. 34-35. See also *infra*, pp. 100-102.

(5) Cf. *Daʿāʾim*, pp. 421/359, 424/365, *Sharḥ*, p. 69 with *al-Uṣūl al-Yūnāniyya*, p. 29, al-ʿĀmirī, *op. cit.*, pp. 298, 334, Muḥammadī, *op. cit.*, pp. 66-67.

(6) Cf. *Daʿāʾim*, pp. 429-430/366-367, *Sharḥ*, pp. 85-86 with *al-Uṣūl al-Yūnāniyya*, pp. 17-18, 81, al-ʿĀmirī, *op. cit.*, pp. 286, 314, 315, Muḥammadī, *op. cit.*, p. 67-69.

the postponement of the collection of land-tax for a year or so in poor crop seasons; (1) compensation for the families of soldiers who die in battle; (2) avoidance of bloodshed, haughtiness, breaking oaths and so forth; (3) and, finally, that justice to the people encourages them to build and plant their land, and this increases the revenue of the state, in which case justice is viewed as being in the very interest of the ruler. (4) The writer of the *ʿahd*, however, need not have taken his ideas from translated political literature. Most of these ideas are indeed found in the original Arabic works, although they may have been influenced by the translated literature in the course of centuries. Some other ideas stemmed from practical circumstances in Islamic history.

2. The *ʿahd* bears a very strong affinity to Ṭāhir's testament to his son ʿAbdallāh. This has been already noted by Gustav Richter (5) and by Gerard Salinger, who added that the resemblance between the *ʿahd* and this testament "seems to exceed that *'air de famille'* common to the whole *mirror* genre." (6) Indeed a close study of Ṭāhir's letter—and there is no need to doubt its authenticity, as Salinger suggested (7)—and its comparison with our *ʿahd* produces very interesting results. As a whole, the two works convey very similar Islamic atmospheres, with some specific Islamic values and duties being expressed almost indentically, such values as piety, righteousness and trust in God, (8) and such duties as the performance of obligatory rituals according to the traditions related from the Prophet and the early *salaf*, especially the five daily prayers and the Friday communal one. (9) The

(1) Cf. *Daʿāʾim*, p. 425-427/362-364 with Muḥammadī, *op. cit.*, pp. 58-59, 66-67.

(2) Cf. *Daʿāʾim*, pp. 422/359 with al-ʿĀmirī, *op. cit.*, p. 334.

(3) Cf. *Daʿāʾim*, pp. 431/368, *Sharḥ*, pp. 106-113 with *al-Uṣūl al-Yūnāniyya*, pp. 82, 83, al-ʿĀmirī, *op. cit.*, p. 295.

(4) Cf. *Daʿāʾim*, pp. 424-426/362-363, *Sharḥ*, pp. 70-71 with al-Jahshiyārī, *op. cit.*, p. 6, Muḥammadī, *op. cit.*, pp. 76-77, 117, 118.

(5) Richter, *op. cit.*, p. 86.

(6) Salinger, *The Kitāb al-Jihād*, p. xv, n. 1.

(7) *Ibid.*, pp. xi-xii.

(8) *Kitāb Baghdād*, pp. 26, 29, 31, *Daʿāʾim*, p. 412/351, *Sharḥ*, p. 30.

(9) *Kitāb Baghdād*, p. 26, *Daʿāʾim*, p. 419/356, 431/368, *Sharḥ*, pp. 47, 89.

general theme of the necessity of learning a good lesson from the previous dynasties, the kings and princes of the various nations and past eras is stressed repeatedly in both testaments. (1) The underlying idea is that the ruler should expect change at all time and should not be given to vanity because of his status, for his position is ephemeral and at death nothing can be taken to the grave. (2) In both testaments too, the ruler is advised, in almost identical words, not to think that because of his position he can act arbitrarily. Rather, he should always think of himself as "ruled" by God. (3) Again, almost all of the detailed advice which is given by Ṭāhir to his son ʿAbdallāh on how to best conduct his state affairs has an echo in the *ʿahd*. He should be kind to all his people, making no distinction between them because of social status. (4) He should make them all obey what is right even if it is bitter, for that makes the common people satisfied, and that is a precious thing to preserve. (5) He should shun association with the people who lie, cheat and speak about other people maliciously as well as the avaricious. (6) On the other hand, he should associate with the scholars, pious and wise men and those who have gained much experience from life. (7) Those people who are not frightened to face him with his shortcomings are to be welcomed, (8) and the ruler should begin by assuming good will on the part of the people rather than ill-will. (9) Almost all the pieces of advice mentioned above in 1 (v) as being present in the translated political literature as well as in the *ʿahd* are found in Ṭāhir's testament too

(1) *Kitāb Baghdād*, pp. 29, 31, 33, *Daʿāʾim*, pp. 413/351, 415/353.
(2) *Kitāb Baghdād*, pp. 28-29, *Daʿāʾim*, pp. 415/353, 416/354, *Sharḥ*, pp. 33-34.
(3) *Kitāb Baghdād*, pp. 28-29, *Daʿāʾim*, p. 416/354, *Sharḥ*, p. 32.
(4) *Kitāb Baghdād*, p. 31, *Daʿāʾim*, p. 416/354, *Sharḥ*, p. 32.
(5) *Kitāb Baghdād*, pp. 30-31, *Daʿāʾim*, pp. 421/358, 424/361, *Sharḥ*, p. 69.
(6) *Kitāb Baghdād*, pp. 28, 30, *Daʿāʾim*, p. 417/355, *Sharḥ*, p. 36.
(7) *Kitāb Baghdād*, pp. 30, 33, *Daʿāʾim*, pp. 418/356, 419/357, *Sharḥ*, pp. 42-44, 47.
(8) *Kitāb Baghdād*, p. 33, *Daʿāʾim*, p. 418/356, *Sharḥ*, p. 44.
(9) *Kitāb Baghdād*, p. 27, *Daʿāʾim*, p. 419/356, *Sharḥ*, p. 46.

—advice concerning soldiers, (1) judges, (2) governors, (3) spies, (4) the poor and destitute, (5) also the effect of the generosity and justice of the ruler (6) and the bad qualities that he ought to shun. (7)

So much for the similar ideas found in both the Ṭāhir testament and the *'ahd*. Ṭāhir's testament is just about half the size of the *'ahd*, and the ideas ennumerated above represent almost all of its major ideas. The main difference between the two is that whereas the *'ahd* is extremely well organized in the presentation of its material, the Ṭāhir testament is absolutely lacking in organization, and its ideas follow no order whatsoever. All in all, the *'ahd* seems to be an "improvement," both sophisticated and conscious, on the Ṭāhir testament, the similarities between the two are too numerous to be attributed to mere coincidence.

Thus we can safely say that the writer of the *'ahd* knew Ṭāhir's testament and used it as a prototype to write his own, then, possibly to attribute it to 'Alī. This should have been done, certainly, after 206/821, the date of the writing of the Ṭāhir's letter. To have access to that letter was extremely easy, no matter where the author of the *'ahd* lived, for we know that Ṭāhir's letter gained immediate widespread success. Ibn Ṭayfūr transmitted that the people "took the (Ṭāhir's) testament from each other, wrote copies of it and studied it. The news about it spread far and wide until it reached al-Ma'mūn. Al-Ma'mūn asked for the testament. When it was read before him he said, "Abū al-Ṭayyib has left nothing from the matters of religion and state ... without reaching the final opinion about it..." He ordered that copies of it should be written to all his governors in the provinces." (8) Thus almost anybody connected with the literary circles or

(1) *Kitāb Baghdād*, p. 30.
(2) *Ibid.*, p. 30.
(3) *Ibid.*, p. 31.
(4) *Ibid.*, p. 30.
(5) *Ibid.*, p. 32-33.
(6) *Ibid.*, pp. 29, 31.
(7) *Ibid.*, pp. 28, 31, 34.
(8) *Ibid.*, p. 34.

with government officials in most parts of the ʿAbbāsid caliphate could have come to know it.

Referring to the person who compiled the *ʿahd*, one should pause at this stage to raise the question: which of the two recensions did he compile, the *Daʿāʾim* recension or the *Nahj* recension? In other words: what was the original recension of the *ʿahd*, the Maghribī one or the ʿIrāqī one?

The answer is given: certainly the *Daʿāʾim* recension, the Maghribī one. The reason for this is not only that the *Daʿāʾim* recension appeared half a century or so before that of the *Nahj*, but, also, that the *Daʿāʾim* recension's additions, omissions and changes are very much random alterations which have absolutely no common denominator or denominators, while the *Nahj* additions, omissions and changes serve clear purposes, as we have earlier seen. These purposes, which are mainly the Islamization of the *ʿahd* and the authentication of its attribution to ʿAli, are not at all contrary to the purposes of the writer of the *Daʿāʾim* recension, who is also keen on attributing this *ʿahd* to the Prophet or ʿAli. Therefore, it is quite inconceivable that he should have dropped such alterations from his recension after having seen them in the *Nahj* one. On the other hand, if the writer of the *ʿahd* had in mind, as prototype, the testament of Ṭāhir to his son ʿAbdallāh, then he did not need to give it specific proofs of being Islamic, by bringing, for example, quotations from the Qur'ān and the Ḥadīth just as Ṭāhir before him did not feel the need for such additions (1) and this is certainly the quality of the *ʿahd* in its *Daʿāʾim* recension.

The *ʿahd*, then, was written in the third/ninth century, at the earliest. Its writer wrote it, probably in the Maghrib, in the recension that was preserved in *Daʿāʾim al-Islām*. Later, a pro-Shī'ī writer, possibly but not necessarily al-Sharīf al-Raḍī, took this recension and made what he thought were enough changes in it to make it appear to be of ʿAlī's compilation, and attributed it to ʿAlī. This was probably done in ʿIrāq.

(1) Ṭāhir's testament has only one quotation from the Qur'ān (*Kitāb Baghdād*, p. 30). It has no quotations from Ḥadīth.

If this pro-Shī'ī writer were in reality al-Sharīf al-Raḍī himself, then he probably did not see the *'ahd* in the *Da'ā'im al-Islām*, because the *Da'ā'im* contains some other testaments of 'Alī's that al-Sharīf did not include in his *Nahj al-Balāgha*. (1) He would, in that case, have seen a copy of the *'ahd* in another source, possibly the same one from which al-Nu'mān copied his recension.

Who is the original author of this testament from whom al-Nu'mān took the *'ahd*?

The clue to the answer lies in the emotional introduction of the *'ahd*, which includes some biographical information about the addressee of the *'ahd* as was mentioned above. This introduction, which is three pages long in the *Da'ā'im* recension, was summarized in about twelve lines in the *Nahj* recension and all the biographical material in it was omitted from it, a thing which is extremely significant as will be pointed out presently. Our information about the addressee can be summarized as follows: He was a man of humble origin, belonging to the common people, who was raised into the position of ruler by God's grace. (2) When he was still in a humble position, he used to hope that God would be charitable to him, (3) and he used to blame the "kings" of the district in which he resided because they were "extravagant in their expenditure, harsh in their rule, haughty towards their people, quick in seizing power, hard in punishing people, negligent of forgiveness and mercy, bad in temperament, domineering of their subordinates, hardly thinking of the life hereafter, never thinking of death, indulging in sensuous pleasures, forgetting people's good acts..., never learning any lesson from past experiences, thinking that they were safe from change..., desiring always to take and never giving even what they should give—being very harsh on the weak, ... and always taking

(1) For example the *Nahj* does not contain 'Alī's testament to Rifā'a, quotations from which are found in the *Da'ā'im*, vol. 2, ed. A. A. A. Fyzee, Cairo, 1969, pp. 174, 528, 529, 530, 532, 535.

(2) *Da'ā'im*, pp. 414/352, 415/353.

(3) *Ibid.*, p. 413/351-352.

lightly their very duties as kings." (1) Now the addressee has had his hopes fulfilled and has taken the position of those very kings he had admonished, and the people look up to him and trust their expectations in him just as he had himself looked up to the previous rulers and had trusted his expectations in them. (2) He has, however, apparently, not remained the same person with his earlier ideals after coming to power. For this reason the writer reminds him of his previous stands and asks him: were your admonishings of the previous kings out of the desire to correct their behavior, after finding it so abhorrent, or did you blame them out of envy of what they possessed? If you did that out of the desire to advise them, then you are now the person who needs advice most. (3) He should not seek to collect riches, even out of gentle love for his children, (4) and he should not be extravagant, neither in what he takes nor with what he gives to people. (5) He should remain humble in spite of the fortune he has come to and he should be very much aware of his limits and not claim anything beyond them at all. (6) He should not think that, by virtue of his new power, he has gone beyond the might of God, nor that he can ignore his duties toward him. (7) For where can he flee from God if he persists in dissatisfying Him? (8) Indeed the addressee should think of death constantly, (9) remembering that it can befall him very soon. (10) For that reason he should keep in mind the image of the previous kings of all nations, how their fortunes were subject to change and how in the end they passed away, taking with them nothing of that which they had gained. (11) This lesson he should have

(1) *Ibid.*, p. 414/352.
(2) *Ibid.*, p. 415/353.
(3) *Ibid.*, p. 414/352.
(4) *Ibid.*, pp. 413/352, 415/353.
(5) *Ibid.*, p. 415/353.
(6) *Ibid.*, pp. 412-413/351.
(7) *Ibid.*, pp. 414-415/352-353.
(8) *Ibid.*, pp. 414-415/352-353.
(9) *Ibid.*, p. 414/352; also p. 416/354.
(10) *Ibid.*, p. 413/351.
(11) *Ibid.*, pp. 413/351, 415/353.

learnt from his own knowledge and experience as well as from noticing other peoples' fates. (1) and it should be in his mind when he is choosing the people who will cooperate with him in his rule. (2) Finally, he should not follow his fatal prejudices, for prejudices are sweet at first but their consequences are destructive. (3)

This is the image that we have of the addressee in the introduction of the *ʿahd* in the *Daʿāʾim* recension. Now, if we can find the person to whom this image applies, then we are on the first tracks of identifying the compiler of the *ʿahd*.

In the Maghrib in the third/ninth century, the only man to whom this image applies and for whose sake al-Nuʿmān is ready to reproduce the whole *ʿahd* in his *Daʿāʾim al-Islām*, even if it has to interrupt the consistency of his *Fiqh* book, is Abū ʿAbdallāh al-Shīʿī (d. 298/911), Aḥmad b. al-Ḥusayn, the *Dāʿī* (missionary) of the Ismāʿīlis in the Maghrib, who founded for the Fāṭimids their dynasty there. (4)

Abū ʿAbdallāh al-Shīʿī was a simple man who was converted to Ismāʿīlism and was sent by the Imām of the Ismāʿīlīs to Yemen to be trained there as an Ismāʿīlī missionary under the victorious Ismāʿīlī Dāʿī there, Manṣūr al-Yaman. (5) He was later sent by the Imām to spread the *Daʿwā* in the Maghrib, which he entered in 280/893. (6) There he spent sixteen years calling the people secretly to his creed, organizing them socially and militarily and finally fighting the Aghlabid rulers of Ifrīqiyya and their governors along with them. (7) In the year 296/909 his victory over the Aghlabids was complete and he entered their capital, Raqqāda, on Rajab 1/26 March

(1) *Ibid.*, p. 415/353.
(2) *Ibid.*, p. 413/351.
(3) *Ibid.*, p. 415/353.
(4) For sources on Abū ʿAbdallāh al-Shīʿī see S. M. Stern "Abū ʿAbd Allāh al-Shīʿī", *E.I.*², vol. 1, pp. 103-104. Almost the whole book of al-Qāḍī al-Nuʿmān *Iftitāḥ al-Daʿwa* (ed. by Wadād al-Qāḍī, Beirut, 1970 then by Farḥāt al-Dashrāwī, Tunis, 1975) deals with the career of Abū ʿAbdallāh. Page numbers of the *Iftitāḥ* pointed out in this paper refer to the Beirut edition.
(5) *Iftitāḥ*, p. 59.
(6) *Ibid.*, pp. 60-71.
(7) *Ibid.*, pp. 73-211.

of that year. (1) The main tribe which supported his endeavor was Kutāma. (2) As he knew that he was nothing more than a forerunner of the real Imām, Abū ʿAbdallāh al-Shīʿī did not claim any rights of the imamate for himself. (3) Rather, after establishing himself in Raqqāda, he travelled all the way to Sijilmāsa and brought out of its prison the real Imām al-Mahdī ʿAbdallāh. (4) He handed over the *imāma* to him and rode with him back to Raqqāda which they entered on 20 Rabiʿ II, 297/7 January 910. (5)

For the first few months of al-Mahdī's imamate, affairs went well between the two men, with Abū ʿAbdallāh recognizing the limits of his position and acting as a humble subordinate to al-Mahdī. Gradually al-Mahdī began to consolidate all power to himself, shrinking considerably the influence of Abū ʿAbdallāh, and to make drastic changes in his predecessor's policy, especially the financial one, as when he stripped the Kutāma soldiers of the fortunes they had gained in their various battles. Previously it had been Abū ʿAbdallāh's policy to reserve the gains for their soldiery. (6) Abū ʿAbdallāh was cognizant of change but dared not object to it. His brother, Abū al-ʿAbbās, however, did not acquiesce but began to criticize al-Mahdī's actions, and to spread accusations against him, to the extent even of expressing doubts about his being the real imām. (7) Abū al-ʿAbbās approached his brother Abū ʿAbdallāh and eventually convinced him to confront al-Mahdī, as al-Mahdī was the very man who had taken from him and his children all that he had built in the Maghrib. (8) The first complaint Abū ʿAbdallāh voiced to al-Mahdī concerned his financial policy towards the Kutāma. He further suggested

(1) *Ibid.*, pp. 212-214.
(2) See for example *ibid.*, pp. 62, 71, 93, 127, 137.
(3) Note that he did not have his name on the coinage or in the *khuṭba* (*Ibid.*, p. 217). See also pp. 238 and 241.
(4) *Ibid.*, pp. 231-241.
(5) *Ibid.*, pp. 247-249.
(6) *Ibid.*, p. 127.
(7) *Ibid.*, pp. 259-269.
(8) *Ibid.*, pp. 259-260.

to al-Mahdī to step aside with all honours and service while he ran the affairs of his state for him in a way that was suitable to the people, for he had known the people for a long time and was aware of their needs and how they should be treated. (1) This gesture warned al-Mahdī of the change that had taken place in Abū ʿAbdallāh's character and stand. He pretended to accept his advice and gave him a gentle answer. (2) Subsequently, he called upon two of his loyal men and made them kill Abū ʿAbdallāh al-Shīʿī and his brother Abū al-ʿAbbās on 14 Jumāda II, 298/ 19 February, 911. (3) The man who killed Abū ʿAbdallāh was from the tribe of Mallūsa. (4)

The impact of al-Mahdī's assassination of Abū ʿAbdallāh was tremendous and spread far and wide in all the Maghrib, (5) even reaching into Italy *(bilād al Rūm)*. (6) General revolts broke out against al-Mahdī, some of them doubting al-Mahdī's legitimate imamate and some others bringing up their own "mahdī", believing that Abū ʿAbdallāh did not die but will come at the end of times to bring back justice to the land. (7) For a period of time al-Mahdī had to avoid appearing before the people. (8) However, when the riots were crushed by his loyal men, al-Mahdī resumed his power, finally as the sole ruler of his state. He shrewdly took a number of steps to assert this power and to divert the people's minds, among which were the assassination of some of the partisans of Abū ʿAbdallāh (9) and the sending of his son al-Qāʾim on the first campaign against Egypt in 301/913. (10) It is my opinion that, in all probability, the writing of the *ʿahd* was one of the

(1) *Ibid.*, p. 260.
(2) *Ibid.*, pp. 260, 264-265.
(3) *Ibid.*, pp. 264-265.
(4) His name is Ghazawiyya (or ʿArūba) b. Yūsuf (*Ibid.*, p. 266).
(5) See *Ibid.*, pp. 269-274, Ibn ʿIdhārī, *al-Bayān al-Mughrib*, vol. 1, ed. A. S. Colin and E. Lévi-Provençal, Leiden, 1948, pp. 166-167.
(6) See al-Dāʿī Idrīs ʿImād al-Dīn, *ʿUyūn al-Akhbār*, vol. 5, MS. ʿAbbās Hamdānī, p. 223.
(7) *Iftitāḥ*, p. 271, *al-Bayān*, pp. 166-167.
(8) *Al-Bayān*, p. 165.
(9) *Al-Bayān*, p. 165.
(10) *Iftitāḥ*, p. 274.

techniques he used to solidify his position against that of Abū ʿAbdallāh's. This conclusion finds particular support in the introduction to the *ʿahd* and also in the *ʿahd*'s general tone. It is on this basis that one understands clearly the various allusions in the introduction to the addressee's humble origin, the change in his fortune so that he became a ruler, the accusations he voiced about the previous kings (the Aghlabids), the necessity of his keeping to his limits (i.e. vis-à-vis al-Mahdī), of not collecting fortunes for his children, of not giving too much to the people (Kutāma), of not feeling too proud and strong in his position so as to go against his duties towards God (and therefore his Imām) for he cannot run away from his power. The repeated reference, in the introduction too, to the change of fortune of "kings" and the highly emotional repeated talk of death eventually overtaking all of them, including the addressee, with the special stress that the addressee should remember that death might come soon on him—all this is well comprehended within the context of the tense relationship between al-Mahdī and Abu ʿAbdallāh al-Shīʿī and the plans al-Mahdī had for his former general. The same is true for other allusions in the introduction. The collaborators of the addressee are a reference to Abū al-ʿAbbās and his allies against al-Mahdi, and the talk about the addressee's acting on the basis of prejudice, cannot but point out to al-Mahdī's version of Abū ʿAbdallāh's change of attitude towards him. Acting on the basis of prejudice was described as being apparently sweet but very dangerous in consequences. Abū ʿAbdallāh might have enjoyed his new attitude, but he was going to pay for it very dearly.

Looking at the general tone of the *ʿahd*, one finds further proof for the close connection between the *ʿahd* and the political situation in the Maghrib around the period of crisis caused by the assassination of Abū ʿAbdallāh al-Shīʿī by al-Mahdī. Here, two main trends are apparent. The first trend is one of appeal to the common people, through stressing almost incessantly the idea that the primary duty of the ruler is to serve the people. This the writer of the *ʿahd* expressed in many ways. There is in the *ʿahd* frequent reference to the necessity of the ruler's

being kind and merciful to the people. (1) He should always interpret their actions on the basis of good will on their part rather than ill-will. (2) He should seek to make *them* content and satisfied, not primarily the noblemen among them. (3) One of the qualifications that he has to look for in the characters of those he wants to appoint as governors is that they should be patient with the people and ready to listen patiently to their complaints. (4) Similar qualities are requested to be found in the secretaries (5) as well as the judges (6) Those latter employees, as well as the ruler, must never distinguish between the strong and the weak, the common and the noble in their judgements. (7) The ruler should prevent the craftsmen and traders from monopolyzing goods, for fear that it would harm the common people. (8) The ruler should pay special attention to the poor and destitute of the people. (9) He should hold audiences with no armed guards standing around him, listen to what they have to say, and give them their rightful share of the *Ṣadaqa*, as God has prescribed in the Qur'ān. He should further understand that there is a faction among them that is so poor and wretched that it fears to approach him. He therefore should appoint some trusted men of his to look after them and find out their needs. All these pieces of advice, reiterated in almost every section of the *ʿahd* give it a trend of "humanitarianism" which can nowhere be found in the earlier Arabic political literature, certainly not in the translated political literature. It is a trend which obviously seeks to appeal to the common people and to please them. Al-Mahdī had to ressort to this for many reasons. The two most outstanding ones are, first, the difficulties he was encountering

(1) *Daʿāʾim*, pp. 416/354, 417/354-355, 419/356-357, 425/362-363, 429-439/366-367, *Sharḥ*, pp. 32, 34, 36, 47, 71, 83, 85-88.
(2) *Daʿāʾim*, p. 419/356, *Sharḥ*, p. 46.
(3) *Daʿāʾim*, pp. 417/355, 430/366, *Sharḥ*, pp. 34-35, 85.
(4) *Daʿāʾim*, p. 430/366, *Sharḥ*, p. 85.
(5) *Daʿāʾim*, p. 428/365.
(6) *Daʿāʾim*, p. 423/360.
(7) *Daʿāʾim*, pp. 422/359, 429/366, *Sharḥ*, p. 85.
(8) *Daʿāʾim*, pp. 429/366, *Sharḥ*, p. 83.
(9) *Daʿāʾim*, pp. 429-430/366-367, *Sharḥ*, pp. 85-88.

with the new elite of the Fāṭimid State, the Du'āt, especially Abū 'Abdallāh al-Shī'ī, his brother, and the leaders who sided with them, as well as the allies of this new *khāṣṣa*, namely the Kutāma sheikhs who sided with Abu 'Abdallāh and remained loyal to him even after his death. (1) The second reason is the difficulties al-Mahdī was still facing from the old elite of the Aghlabid regime, namely the Sunnī *fuqahā'*, especially those of Qayrawān, for whom the religion of the new young state was unacceptable. (2) The *khāṣṣa*, thus were potentially, and sometimes actually, an unlikely ally of al-Mahdī. Al-Mahdī turned away his back to them and shifted his appeal to the *'āmma*, the common people, from whom he could still get his support, especially if he offered them—at least in theory—all the care and attention that was possible.

So much for the first trend that runs through the text of the *'ahd*. The second trend takes up in a different direction, which can be seen, though, as a complementary direction to the first one. It is the trend towards very highly centralizing the political power in the hands of the ruler, rather than dividing it between him and the other officials of the state. The whole *'ahd* seems to portray the total universal order as being composed of three entities: God, the ruler, and the rest of the people, including the state employees. It is the ruler who chooses his state officials and who is responsible for appointing the right men in every single position. (3) Each group of officials has got a "chairman" of some sort: the soldiers, the judges, the secretaries, and so forth. However, it is the ruler himself who makes the decisions pertaining to their jobs. An example of this is the ruler's decision on compensation for a soldier when he performs well or poorly in battle. (4) The

(1) Actually most of Kutāma sided with Abū 'Abdallāh; see *Iftitāḥ*, p. 20. Also see Kutāma being called the Khāṣṣa of the Fāṭimids by al-Mu'izz in al-Nu'mān, *al-Majālis wa al-Musāyarāt*, Ms. Hamdāniyya, vol. 2, p. 118; also pp. 5-7, 21-25.

(2) See for example, *Iftitāḥ*, pp. 269-277.

(3) *Da'ā'im*, pp. 420-421/358-359, 422/360, 424/361, 425/362, 427-430/364-366, *Sharḥ*, pp. 51-52, 58, 68, 75-76, 83-88.

(4) *Da'ā'im*, p. 421-422/359, *Sharḥ*, p. 52.

ruler does not depend on his officials to bring him the news of their respective departments, but rather has his own trusted informants, spies, who help keep him informed of what is going on in the various branches and lands of the state.(1) It is this vision of the human-political society that explains to us the strange division of the people into governors, tax-men, secretaries, judges, tradesmen and craftsmen, and the poor and the destitute. These "classes" of the people, as they are called, have no common criterion according to which they can be so divided. The only explanation lies in the vision of their subordination to the ruler towards every class, *he* having different duties towards every single one of them.

How can this vision be related to the situation of al-Mahdī in the Maghrib around the time of Abū ʿAbdallāh's critical issue? The answer is to be found in viewing the situation there at that time as a serious transitional period from the stage of *Daʿwa* (summons) to the stage of *Dawla* (state).(2) During the *Daʿwa* stage, in which Abū ʿAbdallāh al-Shīʿī was the master, there was no state to be disciplined. When the *Daʿwa* was transformed into a *Dawla* with the entry of al-Mahdī into Raqqāda in 297/910, a new politico-historical phase began. As long as the state had two heads, the head of the old *Daʿwa* (Abū ʿAbdallāh) and the head of the new *Dawla* (al-Mahdī), affairs could not function smoothly in the state; each one of the two heads viewed events from a very different angle. The solution which al-Mahdī found for the situation was to kill his rival Abū ʿAbdallāh al-Shīʿī, therby ending the short transitional period based on duality. Al-Mahdī had learnt the lesson the hard way. His experience had shown him that "cooperation between equals" in matters pertaining to the rule of the state, was not possible. Hence, the tendency in the *ʿahd* towards expressing complete centralization of power in the state in the hands of the ruler. This al-Mahdī pointed out by the *ʿahd* not only as an explanation of what had happened

(1) *Daʿāʾim*, pp. 421/359, 424/361, 425/362, 428/365, *Sharḥ*, p. 69.

(2) There is a very interesting and penetrating study on the change from the *Daʿwa* stage to the *Dawla* stage in Ḥasan Ḥasan and Ṭāhā Sharaf, *ʿUbaydallāh al-Mahdī*, Cairo, 1947, pp. 275-277.

in the past, but possibly as a warning against its reoccurence in the future.

From the above, we come to the conclusion that the *ʿahd* may well have been written just after the year 298/911 in the Fāṭimid Maghrib, under the impetus of the power struggle between al-Mahdī ʿAbdallāh (ʿUbaydallāh) and his *Dāʿī* Abū ʿAbdallāh al-Shīʿī in the newly-founded Fāṭimid state and his subsequent assassination of Abū ʿAbdallāh. Al-Mahdī hoped in the *ʿahd* to justify his action towards Abū ʿAbdallāh, to appeal to the common people for support and to indicate clearly that he intends to be the sole ruler of his state. The *ʿahd* was attributed then quite significantly to the Prophet or to ʿAlī, with a shadow of doubt in both attributions for two reasons: first, because the *ʿahd* was a conscious forgery to start with, and second, to give it a supreme political authority. It is to be remembered too that that the lineage Prophet-ʿAli-al-Mahdī was a straight lineage in the Ismāʿīlī propaganda of the period. The people to whose knowledge the *ʿahd* came could not have mistaken the underlying straight line of authority.

In a way, then, the *ʿahd* represents the first political *constitution* of the Fāṭimid State after its final establishment as a *Dawla*. It is for this very reason that al-Qāḍi al-Nuʿmān had to record it, perhaps under the influence of al-Muʿizz li Dīn Allāh, in his *Daʿāʾim al-Islām*, the book which contained the final statement of the Ismāʿīlī Fāṭimids on matters pertaining to the law. With the *ʿahd*'s incorporation in the *Daʿāʾim*, the *Daʿāʾim* came to represent not only the paramount *divine constitution* of the Fāṭimid State but also the *civil constitution* of the state. Al-Nuʿmān had to produce the whole *ʿahd* in his book because it constituted in fact a single unit. The introduction was particularly important for him to reproduce, not only because it was an organic part of the *ʿahd* but also because it was very relevant to the situation of al-Muʿizz, during whose reign the *Daʿāʾim* was written. Al-Muʿizz had many difficulties with more than one of his *Duʿāt*, (1) a very

(1) For the tense relations between al-Muʿizz and some of his *Duʿāt* see M. S. Stern, "Heterodox Ismāʿīlism in the time of al-Muʿizz," *BSOAS* 17 (1955)

similar situation to that of al-Mahdī with Abū ʿAbdallāh al-Shīʿī. Thus the "modifier" of the *ʿahd* in its *Nahj* recension could easily dispense with the introduction; indeed he *had* to dispense with it because of its biographical references which did not apply to any of ʿAlī's assistant-governors, certainly not to al-Ashtar, hence its summarization there in a few general lines.

* * *

There remains one question. Who is the author of the *ʿahd*? Not al-Mahdī himself certainly, for we know of no literary activities ascribed to him. Also it cannot be al-Nuʿmān because al-Nuʿmān entered the service of al-Mahdī for the first time in 313/925, (1) and did not become closely associated with him until later time. The author can well be one of the scribes of al-Mahdī, who was ordered by al-Mahdī to write a political testament fitting for the situation in the Maghrib, and introduced by indirect reference to the Abū ʿAbdallāh al-Shīʿī issue. This done, al-Mahdī took the *ʿahd*, gave it greater authority by attributing it to the Prophet or ʿAlī and was looking for a fitting person who should ensure its recording in a compendium, and who would give it widespread circulation. The best man he could have found for this job was al-Nuʿmān's predecessor in his service, al-Qāḍī Aflaḥ b. Hārūn al-Mallūsī.

Aflaḥ (2) was born in the early decades of the third/ninth century, converted to Shīʿīsm and was a zealous supporter of the *Daʿwa* apparently at an early stage of its development. He was a very learned man especially in the fields of fiqh ḥadith and the virtues of the imāms from ʿAlī onwards. He was also a compiler and he copied many books pertaining to the fields of his knowledge. As a person, he was an intelligent,

pp. 10-33. Also by the same author, "Ismāʿīlī Propaganda and Fāṭimid Rule in Sind," *Islamic Culture* 23 (1949) pp. 304-307.

(1) *ʿUyūn*, vol. 5, p. 524.

(2) All the information here on Aflaḥ was taken from *ʿUyūn*, pp. 193-195, *al-Bayān*, p. 159, *Fihrist al-Majdūʿ*, p. 76, Ibn Ḥammād, *Akhbār Mulūk Banī ʿUbayd wa Sīratihim*, (Histoire des rois ʿObaidides), ed. by M. Vonderheyden, Alger-Paris, 1927, p. 17.

honest, pious and kind man with an especially beautiful voice in Qur'ān recitation, and a very capable Qur'anic scholar. Thus, when al-Mahdī first entered Raqqāda in 297/910, he appointed him as judge there, and it was probably later, after 308/920, the date of his moving into his capital, al-Mahdiyya, (1) that he expanded the territory for which he was to act as judge, to include, beside Raqqāda, al-Mahdiyya and many other places.

There are in addition to the general background of Aflaḥ, more specific recordings about him that make one suppose that it was he who circulated, with the instigation of al-Mahdī, the *ʿahd* under consideration.

For one, Aflaḥ was of the Mallūsa tribe, the tribe whose outstanding members fought on the side of al-Mahdī in the controversy between him and Abū ʿAbdallāh al-Shīʿī. (2) The very assassin of Abū ʿAbdallāh was himself a Mallūsī, as was mentioned above. Aflaḥ was extremely grateful for al-Mahdi's granting him positions and for the amount of honour he bestowed on him, at one time even allowing him to enter his court on horseback. This did not make him, however, overstep his limits with al-Mahdī. A contemporary Ismāʿīlī source which described for us his final meeting with al-Mahdī (3) portrayed him as a sincere believer in al-Mahdī as an *imām* who has the ultimate truths, a person who thinks of himself as an obedient servant of the *imām* and who is both flattered and joyed to believe that he could be treated by him as an honoured guest. One of the main ideas ascribed to him was that one should not trust a man until he gets to a place of power, for it is then that his real aspirations are uncovered. This same Aflaḥ possessed yet another outstanding quality, namely his ability to powerfully influence people with his (Ismāʿīlī) propaganda. This ability was displayed by his

(1) *Iftitāḥ*, 275.

(2) See *al-Bayān*, pp. 159, 164. For the change in al-Mahdī's attitude towards them see *ibid.*, pp. 172, 192.

(3) This is the book of Abū ʿAbdallāh Jaʿfar b. Muḥammad Ibn al-Aswad Ibn al-Haytham, from which we have the extracts about Aflaḥ in the *ʿUyūn* (see *ʿUyūn*, vol. 5, p. 193).

talking to groups of people with the language which they understood best, deriving his examples from the ordinary things that were relevant to the life of the group and from the things that were tangible to it. Aflaḥ, lastly, was the compiler of a book which contained the speeches of ʿAlī b. Abī Ṭālib.

Putting all these things together, one can quickly see what may have very possibly happened between Aflaḥ and al-Mahdī in the aftermath of the Abū ʿAbdallāh crisis. Al-Mahdī, who wanted desperately to consolidate his position against that of Abū ʿAbdallāh's supporters, may have conceived of the idea of a *ʿahd* which would depict his ideas. Al-Mahdī may have called upon his obedient and learned Mallūsi judge, who had indirectly criticized Abū ʿAbdallāh by his statement about placing trust in a ruler, and may have given him the testament his scribe had written for him, told him he had found it among the *ʿilm* books (1) that he had inherited from his ancestors, the imāms, and that it was of ʿAlī's composition or of the Prophet's. He may have also asked him to incorporate this *ʿahd* in the book in which he collected the speeches of ʿAlī, and may have further asked him to circulate it widely in his propaganda. All this Aflaḥ would have done only too willingly and obediently. Al-Mahdī would have certainly found no better man for this job than Aflaḥ. Later, when al-Nuʿmān entered the service of al-Mahdī, this *ʿahd* could have become a highly authoritative testament, both orally and in writing. Hence he incorporated it in his *Daʿāʾim al-Islām.*

* * *

At any rate, no matter who wrote the first draft of the *ʿahd*, there can hardly be any doubt about its being a Fāṭimid political document that was probably written with the instigation of al-Mahdī ʿAbdallāh in the Maghrib towards the end

(1) For the importance of these "books" for al-Mahdī, as he publically claimed, see *Iftitāḥ*, p. 151.

of the third/ninth century. (1) The *ʿahd* is, in the end, the earliest complete constitution of the Fāṭimids after their transformation from a secret movement to an established state.

Wadād AL-QĀḌĪ
(Beyrouth)

(1) One may tend to think that this Fāṭimid political document may have been written for the Ismāʿīlī dāʿīs in general, like Manṣūr al-Yaman and ʿAlī b. al-Faḍl, i.e. it was not connected with the Abū ʿAbdallāh al-Shīʿī issue in particular. This possibility, however, is weakened by two things. The first is that it would make the *ʿahd* have no connection with the *Maghribī* Ismāʿīlī tradition. The second is that it fails to explain plausibally the appeal to the common people and the centralization of power in the person of the ruler, both of which appear clearly side by side in the *ʿahd*.

A TREATISE ON THE OCCULTATION OF THE TWELFTH IMĀMITE IMAM

INTRODUCTION

In the history of the Shī'ite sects in Islam, one finds that a belief in the future coming of an Imam, from among the descendants of the Prophet, termed the Mahdī (rightly guided one), is a salient feature. *Al-Mahdī*, in general Islamic tradition, is a title reserved for a messianic restorer of the faith. In Imāmite Shī'īsm, the belief in the messianic Imam (the twelfth and the last Imam) becomes not only a basic tenet of the creed, but also the foundation on which the entire spiritual edifice of the Imāmite religion rests.

The Imāmites maintain that their twelfth Imam, Muḥammad b. al-Ḥasan al-'Askarī, who disappeared (or, as they would phrase it technically, 'went into occultation') around 256/873-874, is the promised Mahdī, who will appear before the day of Judgement, to restore justice and equity on earth. The belief in the Mahdiism of the twelfth Imam may well in large measure have been the outcome of the prolonged occultation of this Imam, who was, initially, supposed to reappear shortly after he had disappeared, to avenge the wrongs committed against the family of the Prophet *(ahl al-bayt)* and establish the rule of justice. But this hope in the early return of the Imam resulted in disappointment for the Imāmites, because the Imam was reported to have entered Complete Occultation

(al-ghaybat al-tāmmah) and the knowledge of the time when he would reappear was only with God. The Imāmite leaders, at that time, who were believed to have been directly designated by the Imam himself, may have prudently combined the idea of the Imam in *ghaybah* with the traditions then in circulation, traditions attributed to the Prophet, about the future reappearance of the restorer of the faith, al-Mahdī; at any rate, they proclaimed the twelfth Imam to be that promised Mahdī *(al-mahdī al-mawʿūd)* who would appear at the end of Time, when there would be violent upheavals, plague and many other natural catastrophes, and most importantly, when there would occur a general defection from God and His religion.

The primary sources in the study of the doctrinal evolution of the idea of the Hidden Mahdī in Imāmī Shīʿīsm remain those works which historians have tended to regard with particular contempt. There is little doubt that these are the very sources which can make an essential contribution to an understanding of the period in which the idea of the Hidden Mahdī became crystallized in the Imāmite dogma. The sources referred to are the pious literature which can be best described as hagiographical material, and the theological writings of the followers of this particular branch of Shīʿīsm. This literature has not been considered worthy of attention by many scholars, who undertake to interpret the Imāmite idea of the Hidden Imam by relying almost exclusively on non-Imāmite writings. The Imāmite writings on this subject are invaluable keys to an understanding of the forces which brought about the transformation of the Imāmite Hidden Imam to become the Promised Mahdī, and hence they deserve profound analysis and serious discussion.

The Shīʿite Imams from the very early days seem to have handed down this genre of pious material, which was compiled by the Imāmite scholars during the tenth century. To the historian of religion this so-called "traditional" material is of great value, and careful examination and evaluation of it is indispensable if one is to detect the different stages in the evolution of any doctrine, including the doctrine of the Hidden Mahdī. After all, it is this primitive mode of pious belief

which ultimately found a dogmatic basis to rest on, thus attaining the status of part of the official creed. In Shī'īsm, the cardinal doctrine of the Imāmate shows this evolution: in the beginning it formed part of the simple, exaggerated belief expressed in pious terms of the traditions attributed to the Prophet and the Imam, and only gradually became part of the dogmatic speculations of later scholars.

The writings of the early Imāmites considered in this connection show the ardent attempts to present the Imāmate and Mahdiism of the twelfth Imam in occultation in a logical and valid way. But as these scholars varied in calibre and temperament, so did their methods, both in form and effectiveness. Some, like Ibn Bābūyah (d. 981), who may be taken as representative of the Imāmite traditionists, ventured to demonstrate the Imāmate and Mahdiism of the Hidden Imam by subordinating them to *al-dalīl al-sam'ī*, (1) the so-called scriptural and traditional proof, proving every statement with the appropriate Qur'ānic quotations, ignoring in the process, at times, the context in which the verse appeared, and not giving any consideration to the historical conditions under which it may have been revealed. Often these quotations were supplemented by the traditions attributed to the Prophet and the Imams. This is demonstrated in Ibn Bābūyah's exposition of the *ghaybah* of the twelfth Imam treated in his book entitled *Kamāl al-Dīn wa Tamām al-Ni'mah* (The Perfection of the Religion and the Completion of the Blessing). (2) The work

(1) *al-sam'*: lit. 'the hearing'. It is that knowledge which becomes accessible through the traditional sources, such as the Qur'ān and the *Sunnah*, *ijmā'* (consensus of opinion) and *qiyās* (analogy), in contrast with what is known by *al-'aql* (see below). The Qur'ān, the *Sunnah*, *ijmā'* and *qiyās* constitute *al-sam'* or revelations (Farid Jabr, *Essai sur le lexique de Ghazālī* [Beirut, 1965], p. 127; G. F. Hourani, *Islamic Rationalism: The Ethics of 'Abd al-Jabbār* [Oxford, 1971], p. 129f.). *Al-dalīl al-sam'ī* is an argument based on the above-mentioned traditional sources.

(2) Ibn Bābūyah, Muḥammad b. 'Alī, known as al-Ṣədūq, *Kamāl al-Dīn wa Tamām al-Ni'mah*, 2 vols., Tehran, 1378. Muḥammad b. al-Ḥasan al-Ṭūsī, *al-Fihrist* (Najaf, 1960), p. 185 mentions *Kitāb al-Ghaybah al-Kabīr*; Aḥmad b. 'Alī al-Najāshī, *Kitāb al-Rijāl* (n.p., n.d.,) p. 305f mentions several works by Ibn Bābūyah dealing with al-Mahdī, which now seem to have been collected under *Kamāl al-Dīn*.

seems to have been written during the last years of his life —the time when the Imāmites were under attack from the Ismā'ilites, who had become a powerful sect by that time; the Zaydites; the followers of Ja'far, the brother of Ḥasan al-'Askarī (d. 260/873-74), the eleventh Imam and the claimant to the office of Imāmate after him; and the Sunnites. As a result Ibn Bābūyah undertook to write his work in which he replied to the objections made by all these sects, and attempted to vindicate the Imāmite doctrine of *ghaybah* and the *imāmah* by heavily relying on *al-sam'*. The following passage is the best example of his traditional method. He says:

> Our enemies are questioning us in respect of this subject [of the *ghaybah* and the Imāmate of the twelfth Imam]. They should know that the belief in the *ghaybah* of *Ṣāḥib al-Zamān* (1) rests on the belief in the Imāmate of his forefathers, (peace be on them); and the belief in the Imāmate of his forefathers rests on the verification of the Prophet about his and his forefathers' Imāmate. This is so, because, this subject concerns the Sharī'ah and cannot be established by reason alone. The religious injunctions are based on the Book and the *Sunnah*, as God says in the Qur'ān: "...and if ye quarrel about anything [which concerns religion] then refer it to God and the Apostle." (2) Thus when the Book, the *Sunnah* and the rational proof *(ḥujjat al-'aql)* bear witness for us, what we say is praisewohtry. We say that all the groups—Zaydites and Imāmites—agree that the Prophet said, "Verily I am leaving among you two objects of high estimation and of care *(thaqalayn)*: (3) the Book of God and my near kindred, my family. They are my vicegerents after me, and they will not part from each other until they return at the Pool *(ḥawḍ)* (4) [on the Day of Judjement]." They are informed about this tradition and do accept it. Hence, it is necessary [to maintain] that there should be one among the descendants [of the Prophet] at all times with the Qur'ān, who has the knowledge about the revelation and knows its interpretation; and who should inform [people] of the will of God just as the Prophet did, [that is,] with certainty. The knowledge of the interpretation of the Book of such a person should be based neither on contrivance nor

(1) *Ṣāḥib al-Zamān*: 'The Master of Age'. This is one of the important titles of the telfth Imam with the implication that he is the only living Imam of the Age.

(2) al-Qur'ân, IV:5 .

(3) Lane, E. W., *An Arabic-English Lexicon*, I/1 p. 344.

(4) This is the famous tradition known as *Ḥadīth at-Ḥawḍ*. *Ḥawḍ* is the pool or basin at which the Prophet will meet his *ummah* on the Day of Judgement. For details on this subject see the article in *E.I.* 2.

on deduction, since the knowledge of the Prophet was not of this genre; that is to say, he did not obtain knowledge by deduction, extraction or reasoning. It is not permitted for such a person to indulge in philological or lexical explanation of the Qur'ān; rather, he should inform people about the purpose of God and explain it from God so that his explanation be the proof for the people. Similarly, it is necessary that the knowledge of the descendants of the Prophet about the Book should be based on certainty, enlightenment and intuition. God, the Exalted, in praising the Prophet has said, "Say, this is my way, I invite [ye all] unto God; with clear sight, [which] I and He who followeth me [possess]. (1) Thus those who 'follow' him are from among his family and his kindred, who inform people about the purpose of God, as it appears in the Book and as He wishes [it to be explained] through certainty, knowledge and insight. Since the purpose of God is manifest and uncovered, it is necessary for us to maintain that the Book is not left without informer *(al-mukhbir)* from the progeny of the Prophet who knows the interpretation *(ta'wīl)* to the revelation of the Book. This is what one should comprehend from the *ḥadīth* of *al-Thaqalayn* (the two objects of high estimation and of care, i.e. the Book and the Family). (2)

The above argument clearly shows the extent to which the traditionists like Ibn Bābūyah were dependent on *al-sam'* in vindicating the *ghaybah* and thereby the Imāmate of the twelfth Imam.

Other Imāmite scholars like al-Sharīf al-Murtaḍā (d. 1045), who may be taken as representative of the Imāmite theologians *(mutakallimūn)*, placed emphasis on *al-dalīl al-'aqlī* (3)—rational proof (the form of demonstration favoured by the speculative theologians), in vindicating the Imāmate of the Hidden Imam. This approach greatly undermined the reliability of *al-dalīl al-sam'ī*, which on many occasions had to rely on rare and spurious traditions. Nevertheless, *al-sam'* remained the original basis for the Shī'ī *mutakallimūn*.

(1) al-Qur'ān, XII:108.

(2) Ibn Bābūyah, *op. cit.*, I/151-153.

(3) *al-'aql*: 'intellect, reason, intelligence'. In *kalām* it is discussed as a source of knowledge through which man attains knowledge of the first principles and ethical axioms, independently of the authority of *al-sam'* (al-Hillī, Ibn al-Muṭahhar Ḥasan b. Yūsuf, *al-Bābu'l-Ḥādī 'Ashar*, trans. W. M. Miller London, 1728 , p. 40). *Al-dalīl al-'aqlī* is an argument based on reason independent of revelation. Usually inference from effect to cause; however, when the philosophers use the term *dalīl* they mean by it inference from cause to effect (Article *dalīl* in *E.I.* 2, II/101f.).

Beginning with al-Mufīd (d. 1022), and perhaps even earlier, the Imāmite theologians deemed it important to employ *al-dalīl al-ʿaqlī* in their exposition of the Imāmite dogma of *ghaybah*. Al-Mufīd wrote several works on Imāmate and *ghaybah* on dogmatic lines, that is using the formula "if they say this....we say...." His work on *ghaybah* is entitled *al-Fuṣūl al-ʿAsharah fī al-Ghaybah*. (1) In ten concise chapters al-Mufīd has presented all the important issues connected with the necessity of *ghaybah*, reason behind the *ghaybah* of the twelfth Imam, the benefits gained from the Imam during the ghaybah and so on. Al-Ṭūsī in his *al-Fihrist* (2) mentions several other titles on this topic by al-Mufīd which have not apparently been preserved.

After al-Mufīd, the responsibility of defending the Imāmite doctrine of *ghaybah* fell on his erudite pupil and the great *mutakallim* al-Sharīf al-Murtaḍā. Al-Murtaḍā is more renowned for his *al-Shāfī fī al-Imāmah* which he wrote in reply to the Muʿtazilite al-Qādī ʿAbd al-Jabbār's criticism of the Imāmate in his *al-Mughnī fī Abwāb al-Tawḥīd wa al-ʿAdl*. In *al-Shāfī* al-Murtaḍā does embark on the question of *ghaybah* when he discusses Imāmate. A work which he had devoted to the *ghaybah* was written under the title of *al-Muqniʿ*, (3) which has not apparently been preserved. The only other work of al-Murtaḍā available on this subject is a treatise under the title of *Risālat al-Ghaybah* (Treatise on the Occultation [of the twelfth Imam]), which will be translated in full below. This treatise has been printed in the margins of a book on the principles of Islamic jurisprudence, entitled *Farāʾid al-Uṣūl* by one Mullā Ākhund al-Khurāsānī. The *Risālah* seems to have been much in use by later Imāmite scholars. Faḍl b. al-Ḥasan al-Ṭabarsī (d. 1153) has not only quoted it in full in

(1) al-Mufīd, Muḥammad b. Nuʿmān, *al-Fuṣūl al-ʿAsharah fī al-Ghaybah*, Najaf, 1951.

(2) al-Ṭūsī, *al-Fihrist*, p. 187.

(3) al-Ṭūsī, *op. cit.*, p. 125; al-Najāshī, *op. cit.*, p. 207. In Najaf the author was told that a manuscript copy of this work exists in the museum attached to the shrine of the Imam ʿAlī; but due to some restrictions imposed on foreigners he was not permitted to consult this work.

his biography of the twelve Imāmite Imams but has also expanded it at various points. (1)

The use of *kalām* and the open vindication of the Imāmate and the *ghaybah* of the Hidden Imam was to some extent the result of the favourable relationship of the Imāmite theologians like al-Mufīd and al-Murtaḍā with the ʿAbbasid caliphs and the Būyid amirs. (2) The Būyids had, at least politically, preferred the Imāmite Shīʿīsm, in particular, that part of the doctrinal structure of the *ghaybah* which accepted the rule of 'oppressor' (the caliph, according to the Imāmites), without making the twelfth Imām responsible for his removal and without requiring the *ummah* to pay allegiance to him as an Imam until his reappearance. (3)

The other reason that may account for the transition to the theological defence of these doctrines, by subordinating them to the more central dogma of the Justice *(ʿadl)* of God, was the prolonged *ghaybah* of the Imam, who, as the early sources show, was expected to reappear in the near future. (4) The

(1) al-Ṭabarsī, al-Faḍl b. al-Ḥasan, *Iʿlām at-Warā' bi-Aʿlām al-Hudā* (Najaf, 1390/1970), p. 466-473.

(2) Ibn al-Athīr, *al-Kāmil fī al-Ta'rīkh* (Beirut, 1965), IX/336, 341, 392, 417 cites many occasions when even the caliphs sought to please the powerful *naqīb* of the ʿAlīds, al-Murtaḍā.

(3) Ibn Bābūyah reports that ʿAlī al-Riḍā (d. 818) said once:

I see the Shīʿites [in future] who will become like cattle looking for pasture and will not find one. [This will occur] when the third among my descendants (i.e. al-ʿAskarī) will have died. Somebody asked the Imam, "Why, O son of the Prophet?" He replied, "so that when he rises with the sword he will not be responsible for the allegiance paid by anybody to him (lit. he will have nobody's *bayʿah* on his neck)." (*op. cit.*, II/157).

This is interpreted to mean that during the *ghaybah* there will be no obligations on the *ummah* to bind it to him who will be the theocratic ruler in future, when God commands him to appear. This appears to be a prudent accommodation of the Imāmite theologians of this period with rulers like the Būyids who, having professed the Imāmite Shīʿīsm, were bound to the obedience of the Imams, but because the twelfth Imam was in *ghaybah* and this particular clause existed in this doctrine, they could continue to be the Imāmites and still let the caliph be selected from the ʿAbbasids and not the ʿAlīds.

(4) For instance, al-Mufīd stating the signs of the reappearance of the twelfth Imam, writes:

Many reports recounting the signs of the days when al-Qā'im the Mahdī will rise and the events accompanying the rising have come down to us, and we have

situation seems to have put more pressure on scholars like al-Mufīd and his successors in this *kalām* school, to come forward and meet the challenge of the more profound criticisms made by the Mu'tazilites and Ash'arites. These criticisms related to the subject of the necessity of the Imāmate; the *'iṣmah* (infallibility) of the Imam; whether the Imam was the *luṭf* (grace) of God; the relationship between the Imam and the *taklīf* (imposition of task); and, finally, the rationale of having an Imam in occultation. All these themes were supposed to constitute *al-dalīl al-'aqlī* in support of the *wujūb naṣb al-imām* (the obligation to appoint the Imam); supplementing the earlier *al-dalīl al-sam'ī*.

The Imāmite scholars from al-Mufīd onward questioned the reliability of that part of *al-dalīl al-sam'ī* which was based on traditions, because apparently, fabricated traditions and unauthentic *isnāds* (chains of transmission) were coming to light, although the facts of the fabrication of traditions in certain cases and the defects of their *isnāds* were not always admitted, at least, in the early days. Shaykh al-Ṭūsī (d. 1067), who worked out a delicate compromise, blending the two methods of *al-sam'* and *al-'aql* and vindicated the *ghaybah* by studying the vast number of traditions and giving them theological complexities of a dogma, did not fail to observe the discrepancies and spurious origin of some parts of *al-dalīl al-sam'ī*. At one point, in his *Kitāb al-Ghaybah* he openly declared that not only had the transmitters not reported the whole truth about what the Prophet had said, but had tampered with the facts, changing them according to their personal likes and dislikes. (1) What then was the other way to reach the truth *(al-ḥaqq)*? It was this problem which

used them [in writing this section]. Among these signs are the revolt of al-Sufyānī, the assassination of a *sayyid* from among the descendants of al-Ḥasan and the disagreement of the 'Abbasids in the kingdom of this world..... (*al-Irshād* [Tehran, 1951], p. 692).

The last part of the prophecy regarding the decay of the 'Abbasid caliphate, which is found as early as Ibn Bābūyah, indicates how early the *ghaybah* was expected to end.

(1) al-Ṭūsī, *Kitāb al-Ghaybah* (Najaf, 1965), p. 64.

doubtless impelled the Imāmite theologians to embark on *al-dalīl al-ʿaqlī*, since it would not only substantiate the necessity of the Imāmate but would also defend the Imāmate of the Hidden Imam.

It is in this perspective of the doctrinal development of the occultation of the twelfth Imam that al-Murtaḍā's *Risālah* should be viewed and its importance assessed. The *Risālah*, on the one hand, affords the summary of the *kalām* argument vindicating the rationale of having an Imam in occultation, just as Ibn Bābūyah's argument in support of the necessity of the Imāmate, quoted above, gives an idea of the traditionist vindication of the Imāmate of the Hidden Imam; on the other, it establishes the fact that one cannot ignore the specific contribution of the traditional material in the formulation of the theological dogma. (1)

A *RISĀLAH* ON THE *GHAYBAH* [OF THE TWELFTH IMĀM]

BY

AL-SHARĪF AL-MURTAḌĀ (d. 1044)

In the name of God, the Merciful, the Compassionate. Praise be to God; a praise attached to divine favours (and which is) protection against misfortunes. May God bless the best among the Arab and non-Arab *(al-ʿajam)*, the one sent to all mankind, Muḥammad, /345/ and his progeny, the pure ones, the virtuous and the generous.

Now, as for those who are against us in the matters concerning belief have a wrong notion that it is difficult for us to discuss the *ghaybah*, while it is easy for them [to disprove it]. This is not the first ignorant belief [to which] they have held; with

(1) For the contribution of the early Imāmite sources in this type of study see the present author's unpublished doctoral thesis: *The Doctrine of Mahdiism in Imāmī Shīʿīsm*, University of Toronto (April, 1976).

reflection the contrary of what they imagine will become evident.

What shows this is that the *ghaybah* is a derivation of principles which if correct, then the discussion on the *ghaybah* is the easiest and clearest thing, because it depends on these (principles); and if they are not right then the discussion on the *ghaybah* is difficult and impossible. The explanation of this statement is as follows: Reason *('aql)* (1) requires that there should be a leader at all times, that this leader should be infallible [and that he is such that] one is secure against his committing any bad deed. If these two principles are established, there remains nothing but the leadership of the one about whose Imāmate we shall indicate, since this quality which [the mind] decrees and whose existence it indicates, is not found in any one except him. In this way the validity of *ghaybah* follows necessarily, untouched by doubt. Thus we need to prove the truth of these two principles which have been mentioned.

We, therefore, say: That which proves the necessity of the Imāmate in every age, is that we know, undoubtedly, that the existence of the leader *(ra'īs)*, (2) who is obeyed and who inspires awe and who extends [a powerful] hand, calls more than [anything else] for the performance of the good and the prevention of bad deeds. [We also know] that injustice among people /346/ will either disappear or decrease with the existence of the one we have described; [also] the people, if neglected without any leaders, would go into excess in doing evil deeds and their condition would thus become corrupt and their order faulty. The matter is too clear to require any proof and it is sufficient just to allude to it. For those who want to find out more should turn to it in its proper place.

As for that which proves the incumbency of the infallibility

(1) See fn 9.

(2) *ra'īs*: and *ri'āsah* meaning 'leader' and 'leadership' are interchangeably used with the words *imām* and *imāmah* in Shī'ī writings. See for example al-Ṭūsī, *op. cit.*, p. 3, 4, 5....

('iṣmah) (1) of the leader mentioned above, is that if the cause for the need for him exists, then it follows necessarily that there is a need for a leader and an Imām as there is a need for him and the argument regarding the Imāmate [of such an Imām] is similar to the argument regarding him. (2) This entails upholding either the existence of an infinite number of Imāms, which is impossible, or the existence of an Imām with whom the cause for the need [of an infallible Imām] has disappeared. (3)

If this is established, there remains nothing but the belief in the infallible Imām, for whom the commission of evil acts is impossible and this is what we had sought to show. The explanation and its detailed discussion have been dealt with in its proper place.

If then these two principles have been proved, one must maintain that he is the Master of Age *(Ṣāḥib al-Zamān)* (4) himself; and in the absence of his discretionary control *(taṣarruf)* and his emergence *(ẓuhūr)*, there is no way but to uphold the view about his *ghaybah*. This is so because, when the Imāmate of a person established by the will [of the people] is nullified by reason of the absence of the qualities /347/ which reason indicates; and the view of those few among our fellow Shī'ites, who disagree with us, such as the Kaysānites, (5)

(1) *'ismah*: 'infallibility' is a "faculty of avoiding or shunning, acts of disobedience [or of self-preservation therefrom,] with [i.e. despite] possession of power to commit them." (*Lexicon*, I/5, 2067).

(2) I.e. if the Imam is fallible, then the need for an infallible imam remains and hence the need for another Imam, and if this other Imam is fallible then there is a need for another *ad infinitum*.

(3) Literally, 'separates'.

(4) See fn 3.

(5) *Kaysāniyyah* was a Shī'ite sect named after a follower of al-Mukhtār, Kaysān Abū 'Amrah (Ibn Ḥazm, *The Heterodoxies of the Shī'ites*, trans. I. Friedlander in *J.O.A.S.*, vol. 28/I, p. 44). For various other etymologies suggested for this name see 'Abd al-Qāhir al-Baghdādī, *al-Farq Bayna al-Firaq* (Cairo, 1964), p. 23; al-Shahrastānī, *al-Milal wa al-Niḥal* (Cairo, 1968), I/236; Ḥasan b. Mūsā al-Nawbakhtī, *Firaq al-Shī'ah*, (Istanbul, 1931), p. 204. The adherents of this sect maintained that their Imam Muḥammad b. al-Ḥanafiyyah had not died in reality, and instead believed that he was in hiding and would eventually return and 'fill the earth with justice and equity.'

Nāwūsites (1) and the Wāqifites, (2) has been nullified by their becoming extinct and few in number, and because of the necessity of the falseness of their belief, there remains no alternative but [to accept] our doctrine *(madhhab)*. This is inevitably right; otherwise the truth will be removed from the Imāmate.

If we know by what the two principles lead to that it follows then that the Imām [at the present time] is the son of al-Ḥasan [al-ʿAskarī] (3) and no one else, and we find him hidden from our eyes, we know that he has not disappeared in spite of being infallible and the Imāmate being specifically invested in and imposed on him, except for a cause which made it necessary, and an expediency which demanded him and a state that necessitated [this]. The mode of that [*ghaybah*] has not been known in detail, because that is one of the things the knowledge of which has not been imposed on us as a duty. If we have taken it upon ourselves to offer mentioning this, this is an act of supererogation, just as if we undertake to mention the modes of what is ambiguous in [the ambiguous Qur'ānic] verses after having knowledge of God's wisdom, this [also] would become an act of supererogation.

Thus we say, the reason for the *ghaybah* is fear for him from the oppressive people, and their obstructing his hand from discretionary control over that which has been meant to be his right of discretionary control. [This is] because one attains total benefit from the Imām when he is firmly established

(1) *Nāwūsiyyah*: The etymology suggested for this name is that this Shīʿite sect was headed by a person named ʿAjlān b. Nāwus from Baṣrah (al-Ashʿarī, *Maqālāt al-Islāmiyyīn*, I/97; al-Nawbakhtī, *op. cit.*, p. 57; Ibn Ḥazm, *op. cit.*, p. 44). Al-Shahrastānī is in doubt as to whether this name is derived from a place named Nāwūsā or a man named Nāwūs (*al-Milal*, I/273). This sect believed that the sixth Imam Jaʿfar al-Ṣādiq (d. 148/765-66) had not died and that he was the Mahdī and would return to establish justice and equity.

(2) *Wāqiflyyah*: are those who 'stopped' with the Imāmate of the seventh Imam Mūsā b. Jaʿfar (d. 183/799-800) being 'in doubt or uncertain.' This group maintained that the latter was alive and would continue to live until he ruled the East and West of the earth filling it with justice and equity (al-Ashʿarī, *op. cit.*, I/100).

(3) The eleventh Imāmite Imam who died in 260/873-74 in Sāmarra, Iraq.

and obeyed [by the people] and when there is no obstruction between him and his goals, so as to enable him to lead troops, fight the oppressors, administer legal punishment *(ḥadd)*, (1) protect the boundaries, see that justice is done to the oppressed. All this cannot be accomplished except when he is firmly established. So if something comes between him and his purpose, the duty of carrying out the Imāmate becomes null and void on him; and when he is afraid for his life, his *ghaybah* becomes incumbent. To guard oneself against harm is incumbent both by tradition and reason. The Prophet, peace be on him and on his progeny, had concealed himself in the valley *(Shi'b Abī Ṭālib)* (2) and at another time in the cave; and there was no reason *(wajh)* for that except fear and guarding himself against harm.

If it is said: "The Prophet, peace be on him and on his progeny, concealed himself from his followers only after he had performed that which was incumbent upon him [to do for the people], whereas what you state about the Imām is contrary to this. [It is also the case that] his (the Prophet's] concealment did not last long nor did it become prolonged, while your Imām has gone in concealment and months have passed and ages have gone by without him."

We say: "The matter is not as you have said, since concealment of the Prophet took place before the Hijra and he, peace be on him, had not /349/ conveyed all of the *Sharī'ah*. For most of the injunction of the religious law and their greater number were revealed in Madīna. So how can you claim such a thing? However, if the matter is as you claim that the complete [*Sharī'ah*] was conveyed before the concealment, this does not remove the need for his government and political leadership and his command and interdiction. And who can say that the Prophet with [all] the need that is attached to him for fear

(1) *ḥadd*: pl. *ḥudūd*, 'legal punishment' of certain acts which have been forbidden or for which punishments have been prescribed in the Qur'ān (*Lexicon*, I/2, 525; see also article *ḥadd* in *E.I.*2, III/20f).

(2) The reference is to the short lived boycott of the whole Hāshimite clan by the Meccans in the year 616, excluding it from the city commerce and all other forms of contact with the Meccans.

of harm is not needed after the law has been conveyed. If it is permissible that the Prophet could go in concealment even if he was needed because of the fear of harm, and [if] the prophetic mission is necessary for those who have frightened him and forced him to go in concealment, but is missed from him [during the period of concealment], the same applies to the concealment of the *Imām al-Zamān*. (1)

As for the distinction between the length and shortness of the *ghaybah* [the argument here] is false. [This is] because there is [no] difference between the short and prolonged [*ghaybah*], when this depends on its reason and its cause. It becomes prolonged by the prolongation [of the cause] and short by its shortening; and it will come to an end by its extinction. The difference between him and his forefathers is that he /350/ will appear with the sword, will call people to obey him, and will fight those who oppose him. He will put an end to [the oppressive] rules. What is the connection between this fear from the enemies and that of his forefathers, if one thinks a little more carefully? [Is it not the lack of consideration to compare his fear from the enemies with that of his fore fathers?]

If it is said: "What is the difference between his (the Imām's) existence when he is in the *ghaybah* and no one can reach him nor benefit from him, and his non-existence? [Furthermore,] would not his being rendered non-existent until the time when God knows there will be support for him from the people be as permissible as [His] allowing concealment until that time when God knows that there will be support for him from the people?"

Then it should be said to those [making such objections]: "First, we consider it allowable that many of his friends and those upholding his Imāmate would reach him, and thus benefit from him; and those among them, the adherents of his *Shī'ah*, and believers in his Imāmate who neither reach nor meet him, they too benefit from him during the *ghaybah* [by that] benefit

(1) See fn 3.

which we say is required [in the state of] obligation *(al-taklīf)*. (1) [This is] because with their awareness of his existence among them and by their being certain about the incumbency to obey him, they will inevitably fear him and respect him [so that they would not] commit an evil deed. They are afraid of being chastised or reprimanded by him. In this manner, the [performance of] vile deeds will decrease among them and the good ones will increase, or, [at least] they will be closer to such a thing.

This then is the rational argument in support of the necessity of the Imam. Thus, even though the Imam does not appear to his enemies, because of fear from them and because they have blocked the way to benefit from him against themselves, /351/ we have, nonetheless, shown in this discourse the way his friends benefit from him in the two ways mentioned above.

In addition, here, we say: The difference between the existence of the Imām [who is in the *ghaybah*] because of the fear from his enemies and who is waiting in this state for them (the people) to consolidate him so that he may appear and take command of that which God has entrusted him, and his non-existence is as clear as the daylight; because, if he was non-existent then whatever good the people relinquished or whatever guidance they abandoned and whatever benevolence they were deprived of, would be imputed to God. [In this way] there would be no argument against the people and no blame. But, if the Imām is present, althought in concealment, because of their alarming him, whatever good they relinquish and whatever benefits are eliminated from them, will be imputed to them. They are to be blamed for that and criticized for it.

(1) *taklīf*: 'imposition of a task, obligation', the fulfilment of which carries great reward in the future life. In *kalām* the term is explained as the will of somebody to whom obedience is incumbent, that is the will of God. But the condition attached to the imposition of such will is that it should not have been preceded by any other will, and that this will should have been announced. This will of God, referred to here, is His revelation which He has sent down on His prophet for the guidance of mankind (al-Ḥillī, Ibn al-Muṭahhar, *Kashf al-Murād fī Sharḥ Tajrīd al-I'tiqādāt* [Mashhad, n.d.], p. 197). As a theological term *taklīf* means the necessity which is incumbent on the creatures of God to believe and act as He has revealed to them through His messangers.

In this way, the [argument] is turned against them regarding the concealment of the Prophet; so whatever they say about [the Prophet] we shall answer in the same way here.

The doctrine of the *ḥudūd* (legal punishment) (1) during the *ghaybah*, is clear. It is like this that if [the *ḥadd*] was to be implemented on a person, if the Imām appears and if that person is still alive and if it is /352/ proved on him by imputation and confession of having been committed by him, the Imām will impose the legal punishment on him. But if the punishment was not implemented because of his having died, the sin is on those who have frightened the Imām and forced him to go into *ghaybah*. The *Sharī'ah* does not get abrogated in the execution of the *ḥudūd* because, abrogation is at that time when there is a possibility of implementing the punishment and when obstacles preventing its enforcement have been removed. But under the condition we have mentioned, it does not get abrogated. This [answer] is wholly convincing in this matter. God is the succor and with Him is the [granting of] success.

Abdulaziz SACHEDINA
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(1) See fn 29.

UN ÉPISODE OBSCUR D'HISTOIRE FATIMIDE

Cette note a pour objectif de mettre en lumière un dessein extravagant du calife al-Ḥākim qui, dans la première décennie du Ve/XIe siècle, émut profondément l'Orient et l'Occident, mais sur lequel les sources fatimides, et les travaux qui en sont tributaires, gardent un étrange silence (1). Ce projet avait pour but de modifier la géographie spirituelle et religieuse du monde musulman : extraire le Prophète et ses deux compagnons de la terre de Médine, pour les transférer dans la métropole égyptienne.

En l'état actuel de nos connaissances, cet épisode est relaté par quatre récits divergents, deux rédigés en Occident, et deux en Orient. La première version fut recueillie, dans cette Andalousie qu'il n'avait probablement jamais quittée, par Abū 'Ubayd al-Bakrī (m. 487/1094). Il l'a insérée dans sa géographie sous forme de routier achevée en 460/1068 (2). Reprenant une source inconnue, ce récit nous apprend que le calife avait fait construire, dans la région située entre les deux

(1) Ce silence doit être probablement imputé à la disparition prématurée des Annales d'al-Musabbiḥī pour la période qui s'étend de 406 à 409 H. Cette lacune ressort clairement dans la chronique d'al-Maqrīzī sur les Fatimides : il n'a pu consacrer à ces quatre années plus de 3 pages, *Itti 'āẓ al-ḥunafā'*, éd. Muḥammad Ḥilmī Muḥammad Aḥmad, Le Caire, 1390/1971-1393/1973, II, pp. 112-114.

(2) *Al-Masālik wa-l-mamālik*, ms Paris ar. 2218, p. 55. Ce passage est démarqué dans la relation de voyage anonyme, *K. al-istibṣār fī 'aǧā'ib al-amṣār*, éd. et trad. Sa'd Zaġlūl 'Abd al-Ḥamīd, Alexandrie, 1958, pp. 83/67-68.

villes, Miṣr et Le Caire, trois sanctuaires *(mašāhid)* pour accueillir les sépultures du Prophète et des deux premiers califes. Un groupe de partisans, chargés de leur translation en Égypte, avaient creusé un souterrain partant d'une maison contiguë à la mosquée de Médine et progressant dans la direction des sépultures. Mais ils furent capturés avant d'exécuter leur projet et mis à mort par les Médinois, qu'une révélation divine avait instruits. La fosse fut alors comblée de pierres, sur lesquelles on coula du plomb, afin de réprimer dans l'avenir toute tentative de même nature.

Ce récit se retrouve, condensé et légèrement modifié, dans l'ouvrage perdu d'Ibn Sa'dūn al-Qayrawānī (m. 485/1092) (1), *Ta'assī ahl al-īmān bi-mā ṭara'a 'alā madīnat al-Qayrawān* (2).

Passons maintenant aux versions orientales. La première est reproduite littéralement par trois sources de nature différente : le dictionnaire des notables de la Mekke d'al-Fāsī (m. 832/1429) (3) ; l'histoire universelle d'al-'Aynī (m. 855/1451) (4), et la monographie sur Médine d'al-Samhūdī (m. 911/1505) (5). Cette relation provient de la biographie de l'ascète Abū-l-Qāsim 'Abd al-Ḥalīm b. Muḥammad al-Maġribī, transmetteur du récit. Notice tirée du *Ta'rīḫ Baġdād* d'al-Ḫaṭīb (m. 463/1071), d'après al-'Aynī, ou de son supplément d'Ibn al-Naǧǧār (m. 643/1245), d'après al-Ḏahabī (m. 739/1338) et Zayn al-dīn al-Marāġī (m. 816/1414) (6) qui l'avaient partiellement recopiée, fragments qui furent ensuite repris, l'un par al-Fāsī, l'autre par al-Samhūdī.

(1) Sur cet auteur, v. IBN NĀĞĪ, *Ma 'ālim al-īmān*, Tunis, 1320 H., III, p. 245 ; ZIRIKLĪ, *al-A'lām*, 2e éd., Le Caire, 1373/1954-1378/1959, VII, p. 8 ; KAḤḤĀLA, *Mu'ǧam al-mu'allifīn*, Damas, 1376/1957-1380/1961, X, p. 23.

(2) Passage recopié par SAMHŪDĪ, *Wafā' al-wafā*, éd. Muḥammad Muḥyī al-dīn 'Abd al-Ḥamīd, Le Caire, 1373/1954, II, p. 653.

(3) *Al-'Iqd al-ṯamīn fī ta'rīḫ al-balad al-amīn*, IV, éd. Fu'ād Sayyid, Le Caire, 1384/1965, p. 77.

(4) *'Iqd al-ǧumān fī ta'rīḫ ahl al-zamān*, ms. Istanbul Veliyyuddin 2394, pp. 70-72.

(5) *Op. cit.*, II, pp. 652-653.

(6) Sur cet auteur qui s'appelait Abū Bakr B. al-Ḥasan b. 'Umar, v. KAḤḤĀLA, *op. cit.*, III, p. 60.

Données incompatibles par leur divergence, à la suite d'une confusion. Par un examen rapide des deux dictionnaires de Bagdad, essayons de déceler l'erreur.

La notice consacrée à ʿAbd al-Ḥalīm al-Maġribī ne figure pas dans l'édition du Caire d'al-Ḫaṭīb, dont le mérite principal est celui d'exister : fondée d'abord sur un manuscrit conservé à Dār al-Kutub au Caire, que les éditeurs n'ont pas eu le soin de présenter, et qui se révéla incomplet (1), elle utilisa, par la suite, les photos d'un exemplaire signalé par une allusion fugitive qui a permis de combler la lacune constatée (2). Cette publication collective pourrait donc comporter d'autres omissions passées jusqu'à présent inaperçues. Quant au supplément d'Ibn al-Naǧǧār, il ne subsiste que partiellement : les trois manuscrits actuellement retrouvés (3) ne renferment pas la section consacrée aux personnages nommés ʿAbd al-Ḥalīm. En l'absence d'un document décisif, il est impossible de trancher, mais il est plus vraisemblable d'imputer l'erreur à al-ʿAynī, historien pourtant scrupuleux ; en d'autres termes, la biographie proviendrait du dictionnaire d'Ibn al-Naǧǧār plutôt que de celui d'al-Ḫaṭīb.

Réduit à ses contours essentiels, ce récit nous apprend qu'un hérétique dont le nom est passé sous silence, probablement un fidèle de la nouvelle doctrine qu'on devait baptiser Druze, avait suggéré au calife ce projet démesuré afin d'attirer en Égypte les flots du pèlerinage. Dans ce but, celui-ci fit construire un complexe monumental (4) qui engloutit des sommes considérables et confia à l'émir de La Mekke, Abū-l-Futūḥ al-Ḥasanī (5),

(1) II, p. 296.

(2) V, p. 2.

(3) Ms. Damas Ẓāhiriyya Taʾrīḫ 42 (= photos BN Paris Or.-B Fº I (I-II) ; ms. BN Paris 2131, et ms. Princeton Bibl. univ. Yahuda 3518.

(4) L'édition de Samhūdī donne la leçon de *ḥāʾiz* ; le manuscrit de ʿAynī dit *ḫayr*, vide de sens ; et la phrase a disparu du texte de Fāsī.

(5) Ce personnage s'appelait al-Ḥasan b. Ǧaʿfar b. Muḥammad. En 400/1010, une révolte en Syrie l'avait promu calife sous le surnom d'al-Rāšid billāh. Mais il finit par rentrer à La Mekke, et le calife devait lui pardonner. Pour des détails plus circonstanciés, v. Maqrīzī, *Muqaffā*, ms. Sulaymäniya, fonds Pertev 496, fol. 356 vº-357 vº ; Fāsī, *op. cit.*, IV, pp. 69-79, nº 983, et Y. Rāġib, *Sur un groupe de mausolées du cimetière du Caire*, in *REI*, XLI/I, 1972, p. 193.

qui se trouvait alors au Caire (1), la mission dangereuse de violer les sépultures et d'acheminer les reliques qu'elles contenaient vers la capitale fatimide.

Lorsque ce dernier arriva à Médine, des hommes qui avaient pris connaissance de sa mission secrète, vinrent le trouver. Un lecteur du Coran, Ibn al-Zalabānī les accompagnait. Il se mit à réciter deux versets du Coran qui appelaient les croyants à combattre les Polythéistes mekkois (2), et que la conjoncture revêtait d'une signification nouvelle. Seule la peur des conséquences retint ce groupe hostile de mettre à mort Abū-l-Futūḥ, dont l'angoisse s'était emparée.

Alors un ouragan violent secoua la terre : les chameaux roulèrent avec leur bât, les chevaux avec leur selle. Nombre d'hommes et de bêtes périrent. Ce fléau interprété comme un signe de colère divine délivra Abū-l-Futūḥ de l'angoisse : il lui servirait de prétexte pour abandonner le projet.

Enfin la dernière version provient d'un ouvrage perdu *Istiẓhār al-aḫbār* (3) du cadi Aḥmad al-Dāmaġānī (4), que reprend Mīr Ḫwand (5) : des missionnaires d'al-Ḥākim avaient séduit un ʿalide dont la maison était mitoyenne aux sépultures du Prophète et des deux califes. Il leur permit d'accéder vers elles en perçant le mur de sa demeure. Mais un ouragan jeta

(1) Le calife l'avait reçu en hôte d'honneur, A. MAGUED, *al-Ḥākim bi-amr Allāh, al-ḫalīfa al-muftarā ʿalayh*, Le Caire, 1959, p. 153 ; S. A. ASSAAD, *The reign of al-Hakim bi amr Allah*, Beyrouth, 1974, p. 155.

(2) IX, 12-13.

(3) Répertorié par ḤĀČČĪ ḪALĪFA, *Kašf al-ẓunūn*, Istanbul, 1941, I, p. 79.

(4) Cet auteur pourrait être Abū-l-Ḥusayn Aḥmad b. ʿAlī b. Muḥammad al-Dāmaġānī, traditionniste de rite ḥanafite qui devint cadi de la Rive gauche et du quartier de Bāb al-azǧ à Bagdad. Il disparut en 540/1145, IBN AL-ǦAWZĪ, *Muntaẓam*, Hyderabad, 1357/1938-1359/1940, X, p. 117 ; ḎAHABĪ, *Taʾrīḫ al-islām*, ms. Aya Sofia 3010, an. 540 ; ṢAFADĪ, *Wāfī*, VII, éd. Iḥsān ʿAbbās, Wiesbaden, 1969, p. 208, nº 3157 ; IBN ABĪ-L-WAFĀʾ, *al-Ǧawāhir al-muḍiyya*, Hyderabad, 1332 H., I, p. 82, nº 152. Il est également mentionné par SAMʿĀNĪ, *K. al-ansāb*, éd. ʿAbd al-Raḥmān b. Yaḥyā al-Yamānī, Hyderabad, depuis 1382/1962, V, p. 290. Cependant cette identification est incertaine : aucun de ses biographes ne lui attribue cet ouvrage.

(5) *Rawḍat al-ṣafā*, éd. lithographiée, Bombay, 1263/1847, IV, p. 74. Ce récit a été mis à profit par S. DE SACY, *Exposé de la religion des Druzes*, Paris, 1838, I, p. CCCXLV.

l'épouvante parmi les Médinois qui cherchèrent refuge près de la tombe du Prophète. Comme la tempête ne s'apaisait pas, le ʿalide découvrit le complot au gouverneur, qui fit arrêter et châtier les émissaires du calife. Et la nature de rentrer aussitôt dans le calme.

Pourrons-nous ramener à la convergence des données si contraires? dissocier la vérité de la légende? Certes non. Devons-nous considérer cette tentative avortée comme entièrement forgée dans le but de discréditer un souverain qui passait pour hérétique et rejeter la légitimité du califat des Fatimides? ou comme une vérité altérée pour les besoins de la politique?

La raison nous fait incliner pour la seconde hypothèse : priver Médine de ses reliques les plus vénérées, détourner les courants du pèlerinage vers la capitale fatimide promue au rang de ville sainte et devenue passage obligé, s'inscrit dans la politique des Fatimides, et en particulier de celle d'al-Ḥākim : celui-ci avait, en effet, en 400/1010, chargé un missionnaire ismaʿīlien, ancien gouverneur de Damas, Ḫutkīn, de perquisitionner au domicile de Ǧaʿfar al-Ṣādiq à Médine, et que nul n'avait osé ouvrir après sa mort. Ce missionnaire recueillit les reliques qu'il y trouva, notamment un Coran, une coupe de bois sertie de fer, un bouclier de bambou, une lance et un lit. Il rapporta le tout au Caire, accompagné d'un groupe de ʿalides. Le calife leur abandonna le lit et garda le reste, déclarant qu'il en était plus digne. Ils se retirèrent, en le maudissant, malgré les gratifications — en vérité minimes — qu'il leur avait accordées (1). Au nombre de ces reliques, une petite natte devait être particulièrement vénérée des Fatimides : elle ne sortait du magasin qui la conservait que lorsque le calife présidait la prière de la Fête de rupture du jeûne (2).

La violation de la sépulture du Prophète suscita dans la suite une légende destinée à glorifier la mémoire de Nūr al-dīn,

(1) Ibn al-Ǧawzī, *Muntaẓam*, VII, p. 246 ; Ibn al-Aṯīr, *al-Kāmil fī-l-taʾrīḫ*, éd. C. J. Tornberg, Leyde, 1853-1867, IX, p. 219 ; Abū-l-Maḥāsin, *al-Nuǧūm al-zāhira*, Le Caire, depuis 1348/1929, IV, p. 222.

(2) Maqrīzī, *Ḫiṭaṭ*, Būlāq, 1270/1853, I, p. 453 ; Abū-l-Maḥāsin, *op. cit.*, V, p. 176 ; G. Wiet, *Matériaux pour un Corpus inscriptionum Arabicarum, Première partie, Égypte, MIFAO*, LII, Le Caire, 1930, pp. 163-164.

qui personnifia, durant des siècles, la Guerre sainte *(al-ğihād)* contre les infidèles (1) : deux chrétiens déguisés en pèlerins andalous descendirent dans le couvent *(ribāṭ)* le plus proche de la mosquée de Médine. Ils creusaient, la nuit, un souterrain, vers les restes du Prophète et transportaient, le jour, la terre enlevée dans le cimetière d'al-Baqīʿ. Ils étaient sur le point d'atteindre leur but, lorsque le ciel s'emplit de tonnerres et d'éclairs, et la terre fut secouée d'un séisme si violent que l'on crut que les montagnes allaient être déracinées. Le lendemain arrivait Nūr al-dīn : le Prophète lui était apparu en songe à trois reprises, lui demandant de le sauver du danger dont le menaçaient deux hommes blonds. Il ne tarda pas à identifier et mettre à mort les deux chrétiens que le Prophète lui avait montrés dans son sommeil. Puis il fit couler autour du lieu de sépulture du Prophète un mur de plomb afin que nul, dans l'avenir, ne vînt troubler son repos. Cet événement est situé en 557/1161-1162, date à laquelle Nūr al-dīn regagna en effet la Syrie, après avoir accompli l'obligation rituelle du pèlerinage (2).

En 578/1182, les musulmans devaient trembler réellement pour les cendres du Prophète : suivant des bruits alarmants, Renaud de Châtillon et ses Francs avaient résolu de pénétrer à Médine pour le tirer de sa tombe (3). On prétendait même

(1) Ce récit ne figure pas dans les sources contemporaines ni dans les biographies de Nūr al-dīn, comme le constatait SAMHŪDĪ, *op. cit.*, II, p. 652, qui s'étonnait naïvement de cette lacune. En l'état actuel de nos connaissances, sa plus ancienne version fut consignée par Ğamāl al-dīn Abū Muḥammad ʿAbd al-Raḥīm b. al-Ḥasan al-Asnawī (704/1305-772/1370), dans un ouvrage intitulé par les uns *al-Intiṣārāt al-islāmiyya*, et par son disciple, Zayn al-dīn al-Marāġī, *Naṣīḥat ūlī al-albāb fī manʿ istiḥdām al-naṣārā al-kuttāb*. Cet opuscule au titre flottant correspond probablement à la *Risāla fī ʿadam istiḥdām ahl al-ḏimma waʿadam tabliyatihim ʿumūm al-muslimīn*, que conserve la bibliothèque Zaytūna à Tunis (*GAL, S* II, p. 107). Ce texte est reproduit dans SAMHŪDĪ, *op. cit.*, II, pp. 648-650. La même relation figure, condensée, dans la monographie qu'al-Maṭarī (m. 741/1340) a consacrée à Médine, comme l'indique SAMHŪDĪ, *op. cit.*, II, p. 650. Cependant d'autres versions ont circulé, comme celle qui fut recueillie par IBN IYĀS, *Badāʾiʿ al-zuhūr fī waqāʾiʿ al-duhūr*, éd. Mohamed Mostafa, Le Caire-Wiesbaden, 1395/1975, I/I, p. 241 : seulement les deux chrétiens se sont transformés en un chiʿite.

(2) N. ELISSÉEFF, *Nūr ad-dīn*, Damas, 1967, II, pp. 558-559.

(3) IBN ĞUBAYR, *Riḥla*, éd. W. Wright, revue par M. J. de Goeje, *GMS* V, Leyde-Londres, 1907, p. 59 ; *Voyages*, trad. M. Gaudefroy-Demombynes, Paris, 1949-1965, I, p. 66 ; v. aussi ABŪ ŠĀMA, *K. al-rawḍatayn*, Le Caire, 1288 H., II, p. 37 ; G. SCHLUMBERGER, *Renaud de Chatillon*, Paris, 1898, p. 270.

qu'ils songeaient à s'emparer de son corps et l'ensevelir chez eux, afin que les pèlerins vinssent sur leur territoire leur payer un droit de péage (1). Mais l'expédition fantastique échoua : « Dieu, par son intervention sublime, préserva l'Islam et les musulmans d'un événement affreux », et punit les infidèles « de leur impudence envers lui et de leur prétention à atteindre ce dont les séparait la décision du destin » (2).

Les sépultures d'Abū Bakr et de ʿUmar furent également menacées de transfert : au courant du VII^e/XIII^e siècles, les Alépins offrirent à l'émir de Médine une somme considérable pour les exhumer et les emporter dans leur ville. Il accepta de se rendre à leur désir, mais lorsqu'ils s'apprêtèrent à exécuter leur dessein, la terre s'ouvrit et les engloutit : ils étaient quarante, nul n'échappa (3). Tentative réelle? Peut-être, mais il est impossible de discerner la vérité de la légende qui l'a contaminée et défigurée.

Enfin en 716/1317, le khan de Perse, Ḫarbandā, chiʿite extrémiste, envoya une armée qui, aidée de l'émir de La Mekke, Ḥumayḍa b. Abī Numayy (m. 720/1320), devait exhumer les deux premiers califes et les éloigner du glorieux voisinage auquel ils n'avaient pas droit. Mais cette expédition fut défaite par une armée de 4.000 arabes commandée par l'émir Muḥammad b. ʿĪsā (4).

Après la lecture verticale de ces récits réels ou fictifs, authentiques ou altérés, s'impose la lecture horizontale qui distingue les variables et les constantes. Ces relations décrivent

(1) MUĞĪR AL-DĪN, *al-Uns al-ğalīl bi-taʾrīḫ al-Quds wa-l-Ḫalīl*, Naǧaf, 1388/1968, I, p. 316 ; P. DESCHAMPS, *Au temps des croisades*, Paris, 1972, p. 121.

(2) IBN ĞUBAYR, *loc. cit.*

(3) Ce récit a été recueilli par Muḥibb al-dīn al-Ṭabarī (m. 694/1295) dans *al-Riyāḍ al-naḍira fī faḍāʾil al-ʿašara*, comme le précise SAMHŪDĪ, *op. cit.*, II, pp. 653-654, qui le reproduit intégralement. Absent de l'édition du Caire (1327 H.), ce fragment se retrouve dans la monographie d'al-Ṭabarī intitulée *Maǧallat al-ḫunafāʾ fī manāqib al-ḫulafāʾ*, ms. Paris ar. 1571, fol. 26 v°-27 r°, tirée des *Riyāḍ*. Une version abrégée de l'épisode a été donnée par Marǧānī (m. 699/1300) dans sa monographie encore inédite sur Médine *Bahǧat al-nufūs wa-l-asrār fī taʾrīḫ dār hiǧrat al-Muḫtār* (*GAL*, *S* II, p. 927), que reprend SAMHŪDĪ, *op. cit.*, II, p. 654.

(4) FĀSĪ, *al-ʿIqd al-ṯamīn*, IV, p. 240 ; ʿAYNĪ, *ʿIqd al-ğumān*, p. 70 ; ABŪ-L-MAḤĀSIN, *al-Nuǧūm al-zāhira*, IX, pp. 238-239.

un dessein identique (violation de sépulture) prêté à des personnages différents : chi'ite, chrétien ou sunnite. A ce dessein s'attachent des significations différentes : transférer des reliques vers une autre terre afin d'y attirer les pèlerins ; blesser l'Islam en profanant la tombe du Prophète ; séparer le Prophète des deux premiers califes ; autrement dit, lui épargner cette promiscuité insoutenable pour les chi'ites. Le projet est tantôt secrètement préparé : mission confidentielle, creusement d'un souterrain vers les tombes partant d'un monument voisin ; puis éventé par une intervention surnaturelle : révélation divine ou onirique (apparition du Prophète en songe) ; manifestation de la colère divine par un déchaînement terrifiant de la nature : ouragan, séisme accompagné d'éclairs et de tonnerres, terre qui s'ouvre pour engloutir les infidèles. Tantôt la tentative s'accompagne d'une expédition et avorte par une défaite.

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* *

Cette note se termine par un retour vers son commencement. Notre objectif est atteint, mais par enchaînement, une interrogation se pose. Les sanctuaires que le calife al-Ḥākim avait érigés pour accueillir les nobles dépouilles subsistent-ils toujours? Que l'on me permette de donner la réponse dans une étude ultérieure.

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KADI, COURT, AND LEGAL PROCEDURE IN 17th C. OTTOMAN KAYSERI

THE KADI AND THE LEGAL SYSTEM

What is to be considered here is the *practice* of the Ottoman Islamic legal system of Kayseri at the turn of the seventeenth century. The recorded case summaries in the *şer'i mahkeme sicilleri* make no reference to Islamic legists or legal philosophy, past or contemporary. Never is *fikh* (Islamic jurisprudence) nor its principles mentioned, though other sources make clear

In 1583 the population of Kayseri was about 25,000, making it one of the largets cities in Anatolia. It was the administrative center of Kayseri *sancak* (subprovince) in the *eyalet* (province) of Karaman. See "Kayseri", *EI*²; see also R. Jennings, "Urban Population in Anatolia in the 16th c.: a study of Kayseri, Karaman,...", *International Journal of Middle East Studies* 7 (1976) 21-57.

This paper is built upon two chapters from my Ph. D. dissertation in Islamic Studies at UCLA, "The Judicial Registers *(Şer'i Mahkeme Sicilleri)* of Kayseri (1590-1630) as a source for Ottoman History" (1972). The research was supported by grants from the American Research Institute in Turkey and from UCLA (an NDEA title IV grant). Kayseri *sicils* are housed in the Etnografya Müresi in Ankara, where I have been treated with the greatest hospitality.

Archival sources are cited as follows: # 15 38-7 means Kayseri *sicil* number 15, p. 56, entry 4. The pages in most volumes are not numbered; in such cases the author began counting with the first page containing court business. Cases cited in the text have been summarized selectively on the basis of their importance and relevance to the topic. It should be noted that a verdict is not part of the formal registration of cases in the *sicils*.

how carefully trained kadis were in that science. Court decisions were made, in order of frequency, on the basis of confessions, the testimony of witnesses, reference to written documents (from courts or various government offices), oaths, *fetvas* (legal opinions given by muftis), and imperial *emrs* (orders). However, no rules of evidence were set forth to make explicit the procedure of the court regarding the admission of these kinds of "proof." Although Kayseri kadis continually justified their procedure and decisions as "according to *şer*'" (sharia = Islamic law) or sometimes even "according to the Hanefi imams," they never cited specific principles of *şer*' to elucidate their decisions. The *sicils* were written to be read by people who already knew the system, and so the modern historian is left to figure out the procedure by studying the cases recorded therein.

There are no systematic statements on principles of legal philosophy to be found in the *fetvas* of the Kayseri muftis, either. *Fetvas* were used infrequently at the Kayseri court until after 1620. *Fetvas* that were accepted by the court for specific cases were often recorded *in toto* in the *sicils*, sometimes as an integral part of the case at hand and sometimes at the back of the volume amidst verbatim copies of correspondence which the kadi had received from other Ottoman officials.

These *fetvas* usually were mere abstractions of specific cases with "Zeyd" and "Amr" ("John Doe" and "Richard Roe") substituted for the real names of the disputants; they cited no broad legal principles or antecedent legists. The *sicils* reveal much about legal procedure but little about the philosophical *şer*' and *fikh* considerations which may have influenced particular judgments or legal opinions.

Although the mufti had an important and honored role in the *judicial system*, he was not a member of the court itself and was quite independent of the kadi. So far as one can discern from the *sicils*, he had a single official function in the community: the issuance of *fetvas*. That is, it was his duty to give definitive legal opinions on questions of *şer*' posed to him by parties to law suits and by those contemplating such suits.

The question put to the mufti was supposed to refer to a real problem, but it was always expressed in impersonal terms, with standardized names (e.g. Zeyd, Amr, Bekr, Hind, Agob) in place of those of the actual disputants. These questions had to be worded so as to allow yes or no answers, and the Kayseri muftis rarely said anything more than that. There is no evidence that anyone in Kayseri was ever required or even advised by the court to seek a *fetva*. The *fetva* was issued only in direct response to a request by a litigant or potential litigant, although of course a *fetva* issued at the request of one party to a dispute would apply to the other parties as well. The mufti gave his answer to the question posed him on the basis of *fikh* principles with absolutely no investigation of or concern for the facts of the real case. When the *fetva* was brought to court the kadi had competence to judge whether the case before him exactly paralleled the *fetva* presented to him, so from the point of view of justice it was inconsequential whether the man seeking the *fetva* erred or even lied in describing his version of the problem to the mufti. (1)

The mufti's official role in the judicial process was completed with the issuance of the *fetva*. He made no defense of his *fetva* before the court, and indeed his *fetva*, signed and sealed, was presented to the court by the man who had sought it from him. The mufti had no official role at all in the court. Hardly ever was the name of a Kayseri mufti mentioned in the *sicils* among

(1) See Uriel Heyd, "Some Aspects of the Ottoman Fetva", *BSOAS* 32 (1969) 35-56, for a firman of 1594 chiding the Balikesir mufti for no longer citing authorities for his decisions and ordering that authorities must be cited to support fetvas, p. 45. The written opinions of Kayseri muftis never mentioned authorities on the basis of whom their decisions had been made. This seems to be a break with Islamic tradition. Heyd says that muftis had no way of knowing the truthfulness of fetvas presented to them, p. 51. Cf. "fetva" in index of *Studies in Old Ottoman Criminal Law* by Uriel Hayd (edited by V. L. Menage). Oxford, 1973. On the fetva generally, see Emile Tyan, *Histoire de l'Organisation Judiciaire en Pays d'Islam*. Leiden, 1960 (2nd ed.) pp. 219f, 347; Joseph Schacht, *Introduction to Islamic Law*. Oxford, 1964, p. 73f; E. Tyan J. R. Walsh, "Fatwa", EI². See also Jon Mandaville, "The Muslim Judiciary of Damascus in the late Mamluk Period". Ph. D. dissertation. Princeton, 1969.

For the court of Kayseri *şer'* means exclusively the Hanefi school, the official law school of the Ottoman empire.

the *şuhud ul-hal* or *vekils*, as were those of other ulema. For example, Alaeddin efendi had been for two decades a very regular attendant at court as *naib*, imam, and *muderris*, but when he became mufti he no longer played an active role at court. His successor Inayetullah efendi likewise ceased attending court sessions when he became mufti.

The mufti aside, it is possible to divide the court into three parts: kadi, "Muslims," and "police." The kadi was the key figure, the real source of judicial initiative. The "police" seem to have been rather directly subject to the kadi, an arrangement which probably advanced the cause of justice. The "Muslims" —who may be considered "local citizens" representative of an informed citizenry, or at least informed representatives of the local citizenry—were independent and probably exercised some influence at the court in favor of local interests and needs. It is important to keep in mind that kadis had to maintain a rapport with the "Muslims" and "police" in order to carry out their duties.

Because the court represented both local and Ottoman interests, it was a stable institution. 1) Professional kadis in a large hierarchy were appointed to major *kadiliks* like Kayseri. They served a year or two in a city and then were transferred elsewhere. 2) However, the names of ulema, who are the most prominent and identifiable group among the "Muslims," recur in the sicils through years and even decades, an indication of the stability and continuity they gave the court. As local people, the Muslims were more sensitive to the needs of Kayseri than to those of the empire. 3) Most of the Kayseri "police" *(ehl-i 'orf)—muhzirs*, *çukadars*, *muhtesibs*, city and regional *su başis*, and the sancak begis' *kethudas*—were local people, and many of them served long terms in one office or in a succession of local offices. The Kayseri sancak begis between 1600 and 1625 were usually outsiders, but they had little impact on the court or the community because military campaigns kept them away for extended periods, and some apparently were just not interested in coming to Kayseri to hold office. The *su başis*, *kethudas*, *mutesellims*, and *kaym makams* whom the absentee sancak begis appointed to carry out their duties were often important local

members of the military class, who were able to perpetuate their power through their lifetimes by holding the same or different offices under a series of sancak begis, and some of them appeared regularly at court even when they temporarily were holding no office at all.

1. The Office of the Kadi.

The kadi's authority (or, more properly, the authority of his office) partakes of all three kinds of "legitimate authority"—the rational-bureaucratic, the traditional, and the charismatic—analyzed by Max Weber. An explanation in Weberian terms of the peculiar legitimacy of the office of kadi in the seventeenth century Ottoman Empire suggests some of the sources of the unusual durablity and strength of that office. (1)

The kadi was a bureaucrat in the Ottoman administrative system. The empire was divided into standardized judicial districts quite like one another, and each position required more or less the same duties. Although assignment to a particular district was for a term of a single year, appointment to the office of kadi was permanent. (2) Each kadi was an interchangeable part in the system, who could serve successively in Baghdad, Kayseri, and then Tokat without having to take a refresher course in local law. The kadi was appointed by the Porte on the basis of a specialized education, technical training,

(1) See Max Weber, *The Theory of Social and Economic Organization*, tr. A. Henderson and T. Parsons, ed. T. Parsons, New York, 1968, pp. 324-392.

Weber's own conclusions about the nature of kadi-justice and the sharia are quite different from mine. They are outdated and tinged with europeanophile presumptions of cultural superiority which make them of little scholarly value. The intention here, however, is simply to use Weber's sociological theory of legitimacy to explain a particular phenomenon (with which Weber would certainly have disagreed).

A recent study by Bryan Turner attempts to describe and interpret Weber's thoughts on Islam generally. *Weber and Islam.* London & Boston, 1974.

(2) According to Uzunçarşılı, kadis of the *mevlevi* or *sancak* class, like the Kayseri kadi, were appointed for a single year, while kadis of *kazas* were appointed for twenty months. *Osmanlı Devletinin İlmiye Teşkilâtı*, Ankara, 1965, p. 94f. Kayseri kadis sometimes were transferred before a year was up. However, due to the incomplete survival of Kayseri *sicils*, it is not possible to give any kind of chronological list.

and on-the-job experience. His salary depended on his rank in the hierarchic scale of imperial kadis. The immediate source of his authority was the sultan's berat, whereby Mevlana Mehmed Hakimi efendi was appointed kadi of Kayseri with a salary of 150 *akçe* per day. The law he enforced, both the Islamic *şer'* and the *kanun* of the sultan, had by the seventeenth century been subjected to a very rational organization. The distant religious origins of the *şer'* notwithstanding, it had become a law that served the everyday needs of all the people of Kayseri, zimmi as well as Muslim. The gaps and deficiencies attributed to the law of the early centuries of Islam had been well resolved. The Kayseri kadi was the sultan's legal instrument for achieving the rational implementation of Ottoman law *(şer'* and *kanun)* over the people of Kayseri sancak. (1)

At the same time, the Kayseri kadi stood in the stream of a thousand year old Islamic moral-legal tradition, which was the source of the greater part of the law he implemented. The *kadilik* was no Ottoman innovation. It was a tradition dating from the first days of Islam, an institution that all previous Islamic dynasties had honored, if sometimes grudgingly. Whatever differences and local variations had arisen in the office of kadi in the development of Islam, or in the law *(şer')* that kadis enforced, kadis from other parts of the Islamic world and from earlier times doubtless would still have recognized their office as it was functioning in seventeenth century Kayseri. The kadi, the ulema, and the people all knew the sacred tradition of the office of kadi, and this familiarity must have made the institution more meaningful for them. They knew the tradition that the court must always be open to all petitioners. They

(1) Cf. Joseph Schacht, *An Introduction to Islamic Law*, Oxford, 1964, p. 4. "Although Islamic law is a 'sacred law', it is by no means essentially irrational; it was created not by an irrational process of continuous revelation but by a rational method of interpretation, and the religious standards and moral rules which were introduced into the legal subject-matter provided the framework for its structural order."

For Kayseri zimmis, see paper forthcoming in *Journal of the Economic and Social History of the Orient*, by R. Jennings.

knew the traditions which required speedy settlement of litigation and those which forbade professional advocates. They knew the kadi as protector of women and children and of their property, as overseer of *evkaf*, and as the appointer of imams.

The precise terms in which the Muslims of the Ottoman Empire understood these traditions is a subject which has yet to be investigated. Nevertheless, there was a religiously oriented empire where, both by popular will and imperial fiat, many *secular* traditions *(rusum, 'adet)* were held unalterable. There can be no doubt that, in the eyes of the people and of the Porte, the legitimacy of a *sacred* tradition must have been absolute. Ottoman kadis held an office many aspects of which were defined and determined by the sacred traditions of Islam. The office of kadi had not sprung full grown from the Prophet and the Holy Book, but had rather, like the caliphate and sultanate, and even the *şer'* itself, undergone historical growth and development for centuries. The idea of the office of kadi was for Muslims inseparable from the holy *şer'*, as its arms and legs.

It is of course difficult to estimate the role that the charisma of Islam played in the legitimization of the authority of the kadi's office in Kayseri at the turn of the seventeenth century. Despite the centuries-old process of the "routinization" of the charisma of Islam into rationality and traditionality, Islam in central Anatolia remained a vital living force. There even endured a dose of what Weber calls "kadi-justice"—" 'Solomonic' arbitration." (1)

(1) "A large number of Ottoman fetvas deal with very simple legal questions the reply to which is obvious and free from any doubt. ...This is not astonishing in any way... Even the Shaykh al-Islams did not consider it beneath their dignity to issue fetvas on the simplest questions of law." Such fetvas gave simple answers to those who could not consult lawbooks themselves, their use became customary, and people used them for out of court settlements to save money. Heyd, "Fetva", p. 54.

"It is rather astonishing that fetvas of such distinguished Shaykh al-Islams as Abu 'l-Su'ud and Sa'd al-Din had to be confirmed by their successors and that even the conformity of one of these fetvas with the religious law was questioned. Could the reason be that a fetva had greater practical value if it was issued by the Shaykh al-Islam of the day?" p. 44. The fetvas of Kayseri muftis include many of this type.

As a moral and prophetic religion Islam with its sacred institutions had retained and maintained some of its early charisma. The legal system of the Ottoman Empire had the unqualified support of Islam as expressed by its leaders: indeed that legal system was the legal system of Islam. The people who made it work were called "Muslims." The court was called *meclis-i şer'* and sometimes the kadi was even called *hakim uş-şer'*. The *şer'* was the holy law of the religion, and

It has been argued that the recurrence of fetvas dealing with a particular matter indicates an acute problem, e.g., that the many fetvas concerning zimmis' legal prerogatives indicates that their legal prerogatives were continually being challenged. However, many fetvas in the Kayseri *sicils* are connected with up-holding *kanun*, even though there can be little doubt that *kanun* was not undergoing a systematic attack.

It may be that these seemingly redundant fetvas indicate a perceived need to counter the survival of the old judicial initiative—Weber emphasizes the unpredictability of "kadi-justice" as he conceived it. See Max Weber, *Law in Economy and Society*, ed. M. Rheinstein, tr. E. Shils and M. Rheinstein, Cambridge, 1954, pp. 244, 354. Also, *The Theory of Economic and Social Organization*, p. 361. Nevertheless, from the 10th century the fundamental conservatism of Islamic law is indisputable; and there is no unpredictability or arbitrariness apparent in the *sicils* in question.

Theoretically, decisions regarding Ottoman zimmis might be empirically based on the most recent "development" of laws of zimmis or an ancient law, namely early tradition and Ebu Hanife. Decisions regarding the authority of *kanun* might similarly be derived in either way. *If* such a situation existed in sixteenth and seventeenth century Ottoman legal practice, the "redundancy" of fetvas may perhaps be understood in this light.

Heyd criticizes an opinion that he attributes to J. R. Walsh that "decisions of distinguished Shaykh al-Islams were of no value as 'legal precedents' ", calling it correct "only in the sense that they did not make case law". Although Heyd concedes that kadis sometimes refused to accept the opinion of a mufti, he emphasizes that there were considerable legal and moral pressures on the kadis to obey. "Fetva", p. 56. Such practice would deviate from Weber's "kadi-justice" where "predictability of decisions" is "at a minimum". *Law in Economy and Society*, p. 244.

Walsh, who thinks little of either the quality or the authority of provincial muftis, describes the relationship of kadi and mufti as follows: "For as the *kadi* was usually a transient and a stranger to the district to which he was appointed, and was felt, moreover, to be the agent and the voice of the secular power, his judgments only achieved the authority of religion when they had the implicit sanction of some elderly person locally respected for his piety and somewhat above the very low average level of education." Walsh, "Fatwa", EI². Even if some of the implications of what he says were true, his viewpoint has no answer to why in Kayseri no more than one or two litigants a week presented fetvas to the kadi.

men trained in the holy law to implement it gained a special respect that civil authorities in a civil legal system never acquire. So long as the kadi did not alienate this charismatic legitimacy through personal disreputableness or immorality, his office was supported by it. (1)

The *kadilik* (Arabic *qaza*) was an anomaly within the rationality of the Ottoman bureaucracy, for while the authority of all other officials depended absolutely upon the sultan as the source of their power, kadis could claim also a divine source of their authority and a traditional one as well. The office of kadi was an institution that antedated the Ottoman Empire and presumably would outlast it as it had endured after all earlier Islamic empires. The law was a Law that came from God and was in its essence not subject to the whims of mundane and transitory sultans. Every kadi had full authority, divine and imperial, to enforce the Law within his district.

The people of Kayseri knew this legal system guaranteed them a number of divinely ordained inalienable rights which no official could take away. Every inhabitant of the province (except the imperial *kul*) was guaranteed rights of life, liberty, and the pursuit of happiness, as well as inalienable rights of property. Hence the Porte could order the Karaman beglerbegi to kill the Kayseri sancak begi as a brigand; but if the suspected brigand was a poor villager, even a zimmi, the Porte would only pass along the complaint it had received and order the kadi to

(1) Mandaville reached somewhat similar conclusions in regard to the sharia and the kadi in this study of the judiciary in Mamluk Damascus. "One of the most important governmental functions of the judge is never stated explicitly by contemporary sources...", "...the function of legitimizing the Mamluk regime in the eyes of the population." p. 87. "Thus the judges of the city through their roles in protocol and extraordinary political events stood as an assurance to the public that the Mamluk regime conformed to God's laws for the Islamic community, and in this important respect legitimized the regime." p. 89. However, he argues that the connection with the state compromised the position of the kadi: "No doubt the efficacy of the judge in performing this service was to some extent compromised by this obvious personal interest in the legitimization process, his sometime reliance upon Mamluk favor for his office." p. 89f. That is a point I would not make for 17th century Kayseri.

Cf. Heyd, *Criminal Law*, p. 244. "...their awe of the cadi as representing both religion and the Sultan..."

look into the matter and to carry out the *şer'*. (1) Every inhabitant had an unequivocal right to a public hearing before an impartial judge and to the due process of law. He was considered innocent until proven guilty (or having become notorious). Even the fiat of the sultan did not alter these rights. The *şer'* was unchanging, and the kadi was charged with defending both the *şer'* and the people of his district against any transgressor (hence the ever-current popular stories of kadis who had dared to challenge high officials and even the imperial authority on the basis of the divine *şer'*). The Ottoman family is considered noteworthy among Islamic dynasties for having paid particular respect to this tradition of Islamic law, for supporting it with imperial writ, and for honoring it. Consequently, the people of Kayseri were ruled by law, not by imperial prerogative. (2)

Once the special legitimacy of the office of the kadi has been understood, it becomes easier to understand the special role of kadis in the empire. Kadis had a greater freedom of action within the scope of their offices than did bureaucratic and military appointees whose positions were defined entirely by the writ of the sultan.

2. The "Muslims"

Among the "Muslims" are included people called *şuhud ul-hal*, *Muslimun*, and *muslihun*. Any male Muslim in Kayseri could fill these offices. No expertise was required by the court beyond a functional intelligence and a reputation untarnished by public dishonesty. It is true that expertise, knowledge, and rank were particularly honored and respected. When people of a village or *mahalle* testified en masse, the names of *seyyids*, *şeyhs*, agas, and imams usually preceded those of mere "Muslims." The names of ulema, local agas, and imperial officials

(1) See # 14 98-1, a firman to the Karaman beglerbegi Zul-Fikar, ordering him to execute Kayseri sancak begi Cuma, who is a brigand *(eşkiya)*.

(2) Even imperial orders for emergency military provisions were sent to the kadi and he, according to the standard procedure, divided the assessment on the community.

were almost always given before those of more "ordinary" people, as when, let us say, a *muderris* and a tailor were together *şuhud ul-hal.* "Muslim" offices then were ones for which any Muslim was eligible and adequate but ones which ulema and men of the sultan tended to fill in disproportion to their numbers because of the greater extent of their interests, the greater breadth of their experiences, and (through wealth and position) the greater frequency with which they were likely to be involved with or interested in matters resulting in litigation.

Yet despite social differences, for all the purposes of the administration of justice, a *muderris*, a spahi, and a blacksmith each counted equally as one "Muslim" at the court.

From the earliest days of Islamic law it has been the custom for the court to hold public sessions and for members of the Muslim community to have their names affixed to the official written record of every case to record their presence at the hearing. In the Ottoman court system these people were called *şuhud ul-hal.* Their names were appended both to the official summary of each case in the *sicil* and to any *huccets* prepared. In Kayseri the *şuhud ul-hal* usually numbered between four and seven, rarely as few as one or as many as twelve; at least part of the composition of the *şuhud ul-hal* changed for almost every case. No indication was given about how anyone happened to become one of the *şuhud ul-hal* for a case. The names of people who served as *şuhud ul-hal* in Kayseri seem almost endless, so clearly they were not a small class. (1)

Şuhud ul-hal were witnesses to the procedure of the court, which may perhaps be called *hal.* Among them one may recognize some ulema, *ayans*, and others who regularly attended court and were concerned with the fair and effective functioning

(1) Cf. Tyan, *Histoire...*, p. 361f. In the courts of the Abbasid period there was a special class of "witness" called *'udul* (sing. *'adil*) whose numbers were often very few (except among the Hanefi, who held that all persons were eligible for the office). H. F. Amedroz, "The Office of Kadi in the Ahkam Sultaniyya of Mawardi," *JRAS* 42 (1910) 779-781. Cf. Schacht, *Introduction...*, p. 194. A full study of this clerk class is found in E. Tyan, *Le Notariat et le régime de la preuve par écrit dans la Pratique.* 2nd ed. Harissa, Liban; Annales de la Faculté de Droit de Beyrouth, 1959. Cf. Mandaville, p. 9f. For zimmis as *şuhud ul-hal* and *muslihun*, see R. Jennings, "*Zimmis*".

of the court. These people are distinguishable because they were *şuhud ul-hal* from time to time and also fairly regularly had other business, official or personal, before the court. A second distinguishable group of *şuhud ul-hal* are people whose names did not appear often at court but who had a definite connection with a certain case. Thus, people from a mahalle or a village often appeared as *şuhud ul-hal* in a case involving someone from their community. Often a neighbor of a party to a suit was one of the *şuhud ul-hal.* When a janissary was involved one or more of the *şuhud ul-hal* might be janissaries. When a member of the ulema was involved, one or several of the *şuhud ul-hal* were ulema. Clearly the office of the *şuhud ul-hal* was open to people with special interests in cases.

What did the şuhud ul-hal do? Surely they did something important, for otherwise men with special connections to a case need not have bothered to come to court in this capacity. Perhaps they exercised a constraining force on the kadi. To be legal a *huccet* needed to have on it the names of *şuhud ul-hal.* Each was in fact lending his name to affirm that in his opinion the procedure of the kadi in that case had been fair and just. Each became a potential witness to the procedure of the case and to the decision of the court should any later disputes require such testimony.

Some very provocative questions can be raised about the role of the *şuhud ul-hal* in Kayseri, although unfortunately these questions must be left unanswered for the present. Local people who acted as *şuhud ul-hal*—both those who regularly attended court and those who had definite connections to a case—would have been useful to a kadi who needed to know the reputation of the litigants and witnesses who testified before him. Did the *şuhud ul-hal* have any such function? How did anyone happen to become one of the *şuhud ul-hal* for a given case? Could the "Muslims" of the court refuse to accept a judgment set forth by the kadi, by refusing to give their names to the *huccet* and the *sicil*? Could "Muslims" have prevented a kadi from erring or being dishonest by en masse refusing to lend their names to the court procedure? Could a strong local ulema (to cite the most visible of the *şuhud ul-hal*) then have

restrained a corrupt kadi in their city? What power would a kadi have had in the face of such opposition? Exactly whose interests and what kind of interests would the ulema have looked after? (1)

Hanefi, Shafii, and Maliki legists all agree that: « Les šuhud sont devenus les auxiliaires nécessaires du kadi. Leur fonction essentielle est de servir de témoins des débats du procès et du jugement. » Mawardi says they « ...portent témoignagè des droits 'qui sont reconnus et des sentences qui sont prononcées ;' he considers them permanent witness (« témoins fixes »). (2) Cahen, in a recent study, has aptly described "...les témoins 'instrumentaires', c'est-à-dire ceux qui attestent par leur participation la régularité des actes judiciaires, et qui eux peuvent techniquement entre, et ont été en effect, constitués en une liste sur laquelle les cadis recrutent leurs auxiliaires normaux." (3)

However, it must be maintained that the Kayseri kadi had no such lists. No one at the Kayseri court was ever identified as being of a "class" of *şuhud ul-hal*; one simply held the office for a particular case. Although it does seem likely that by their presence as *şuhud ul-hal* they were signifying their acceptance

(1) Tyan mentions a *consilium* whose job was to furnish advice to the kadi, whose nature was essentially consultive so that they did not necessarily even have to attend court sessions, but who were very learned in law and could give the kadi advice when he needed it. The study of the *consilium*, Tyan warns, "is one of the most neglected aspects of the study of the Islamic judicial system", and modern writers overemphasize the "singleness" of the kadi. E. Tyan, "Judicial Organization", in M. Khadduri and H. Liebesney, *Law in the Middle East*, vol. I, Washington, 1955, pp. 245-247, 251; Tyan, *Histoire...*, pp. 315-319. The *consilium* later declined into a chancery of "court clerks".

This *consilium (mashura)* apparently developed to the fullest in Andalusia, where it became obligatory. I.e., in the 11th century Ibn 'Abdun maintained that the kadi could not hold a hearing without the presence of two jurists. Tyan compares the *consilium* to the Byzantine judicial system where a similar institution existed.

The *şuhud ul-hal* at Kayseri may perhaps be compared in some ways to the *consilium*, but they attended court, were drawn in part from people who were in no way "experts", and were not "court clerks". It would not be surprising to find that the *şuhud ul-hal* were "consultive", but they surely were not experts like the *ehl-i hirf*.

(2) Tyan, *Histoire...*, pp. 361ff, 365 f.

(3) Claude Cahen, "A propos des Shuhud," *Studia Islamica* 31 (1970) 71f.

of the decision of the court, in Kayseri the office of *şuhud ul-hal* was open generally to "Muslims". (1)

One might conjecture about the possible consequences for society of these *şuhud* as an open or closed group. In the closed system much power falls to a small elite of clerks, who build up an exclusivist, self-perpetuating class; in the open system, more egalitarian, the people, collectively and individually, are encouraged to make even fuller use of the court.

Although the distinction "instrumental witness" is a useful one, the precise function still remains uncertain. (2)

Part of the procedure for investigating certains kinds of complaints at the Kayseri court involved a field investigation undertaken by an *ad hoc* committee of "Muslims" who were led by a representative of the kadi *(naib)*. If the complaint was of a criminal nature, a representative of the office of the sancak begi accompanied the *naib* and "the Muslims whose names are written below"; but if the complaint was not of a criminal nature, no "police" official was needed and then the committee consisted solely of a *naib* and "the Muslims whose names are written below." In both cases the committee had full authority to go anywhere in the *kaza*, to hear the case, and to settle it there.

The committee was organized by the kadi, who designated a *naib* as its leader. The representative of the sancak begi's office, if there was one, seems not to have been selected by the

(1) It should be remembered that the Hanefi school did not establish exclusionist regulations on witnesses as the other law schools did. Rather it considered everyone eligible to testify who had not disqualified himself by some serious impropriety.

(2) Mustafa Akdağ asserted that kadis consulted with *şuhud ul-hal*, especially on matters of *'orf* and *'adet* that they might not know so well. Some were important people in the town. A few changed for almost every case; some were named, others were not ("ve gayrihim"). Akdağ further identified *şuhud ul-hal* as an advisory council ("bilirkişi heyeti"), a council of witnesses ("şahitler heyeti"), who have the character of a jury ("bir jüri mahiyeti"), and who attest to the impartiality of the kadi ("muhakeme tarzının müşahitleridirler"). They give trust ("güven vermekteydi") to the plaintiff and the defendant." (*Türkiyenin İktisadt ve İçtimat Tarihi*, v. I, Istanbul, 1974, p. 404f; v. II, Ankara, 1971, p. 81.) Unfortunately he was not able adequately to authenticate these assertions. (Indeed, because of the nature of the records, it is extremely difficult to be more than impressionistic on the functions of the *şuhud ul-hal*.)

kadi. His name always occurs after that of the *naib*. No indication is given of how the office of the "Muslims" was filled, for there is no mention of their ever being appointed. Probably they were interested "Muslims," some "interested" in the correct functioning of the court and others "interested" in the particular case.

"The Muslims whose names are listed below" ("*zeyl-i kitabda esamisi mestur olan Muslimanlar*") were, in fact, the *şuhud ul-hal* to the case. (1) That is, the only names ever found below were those of the *şuhud ul-hal*, whose names were listed below the summary of the case. Here is another situation where a kadi (for a *naib* is an acting kadi) did not act alone but in cooperation with others. Although the role that the Muslims played in the investigatory committee cannot be determined precisely, no investigations were ever undertaken in Kayseri without the presence of Muslims.

Muslims also participated in the process of compromise *(sulh)*. Whether the people who helped negotiate compromise (collectively called *muslihun* and never mentioned by name) were actually part of the court can be questioned. Often litigants reported to the court that *muslihun* had negotiated *sulh* between them, indicating that this compromise had been accomplished away from the court. Other times the litigants reported that, after they had come to court, *muslihun* had negotiated *sulh* between them. At least in the latter case, encouraged both by the court and by Islamic law, *sulh* can be considered "official." *Muslihun* who abetted this process were probably drawn from the same kinds of people as *şuhud ul-hal* (i.e., friends of both parties and neutrals who happened to be at hand) and deserve to be considered participants in the procedure of the court. (2)

(1) The *naib* and the man from the office of sancak begi were never *şuhud ul-hal* in such cases.

(2) For *sulh* in Hanefi law see al-Marginani, *The Hedaya, or Guide*, tr. C. Hamilton, Lahore, 1963, pp. 441-452. Cf. Schacht, *Introduction...*, p. 148. For reconciliation as a factor in modern interpersonal relations, see Fatma Mansur, *Bodrum, a town in the Aegean*, Leiden, 1972, pp. 222f, 225; Paul Stirling, *Turkish village*, London, 1965, p. 248f.

Muslihun were no fixed class or group. *Sulh* might occur in any *mahalle* or village and the negotiation of *sulh* was a neighborly process, not a formal legal procedure. The *muslihun* must have been friends, relatives, neighbors, or other Muslims who helped litigants or potential litigants settle their disputes out of court or before the court brought forth its own judgment anyway. *Sulh* was a frequent solution to cases at the Kayseri court, and the *muslihun* performed a useful function. The Muslims (or "the people"), then, served the court continually in three ways: as instrumental witnesses, as auxiliary investigators, and as mediators.

3. Police

Students of Islamic law invariably consider one of the basic weaknesses of the *şer'* courts to have been the lack of police power to enforce decisions. Perhaps it ought really not to be considered so strange that the judiciary and the police were separate institutions. Although court and police were separate in Kayseri, the "police" seem to have cooperated with the kadis. The Kayseri "police" had no *mazalim* court to which to turn and they were responsible to and responsive to the kadi in matters of law enforcement. (1) They were subject to the *şer'* personally

(1) Schacht defines the *mazalim* as the "investigation of complaints." "It was a prerogative of the absolute monarch by which the caliphs themselves or, by delegation, ministers or special officials and later the sultans, heard complaints concerning miscarriage or denial of justice or other allegedly unlawful acts of the *kadis*, difficulties in securing the execution of judgments, wrongs committed by government officials or by powerful individuals and similar matters. Very soon formal Courts of Complaints were set up. The more important lawsuits concerning property, which in theory would have come within the jurisdiction of the *kadi*, tended to be brought before the Courts of Complaints too, so that their jurisdiction became, to a great extent, concurrent with that of the *kadis*' tribunal." Schacht, *Introduction...*, p. 51. In short, the *mazalim* was a non-Islamic secular court operated by the government in competition with the *şer'* court.

Heyd feels that in the Ottoman empire these two courts, or their functions, became one: "The Ottomans maintained these jurisdictions side by side with the cadis' law-courts." p. 1. *Criminal Law.* The Ottomans tried to "eliminate this dichotomy", p. 2. Heyd's picture of "intimidation and even force", "effective" but "arbitrary and excessively severe", certainly does not conform to my own evaluation. Of course, the cases I have studied admittedly do not mention criminal penalties imposed, the severest aspect of the conditions Heyd

and officially in the performance of their duties. It can be observed that the court was moderate in the use of force; but, although the court authorized its use somewhat reluctantly, the kadi had enough power and prestige to guide the "police" and to apprehend any subject. (1)

These police can properly be called *ehl-i 'orf*. They may be divided into three groups, each connected with law enforcement. The *muhzir* and *çukadar* were appointed by and directly at the call of the court. The *muhtesib* may not have been so independent an official as he was in early Islam. The *su başis* and the *kethudas* of the sancak begis were appointed by the Kayseri sancak begi—they represented the more independent arm of the police. (2)

Supposedly there exists a dichotomy between Islamic tradition which requires that criminal cases must be initiated by the victim, or by his immediate relatives if he is unable to do so himself, and Ottoman determination that the court and police take initiative and bring suits. In Kayseri it was left to indi-

describes, and possibly police, or even judicial, torture, were simply not recorded in the judicial records. (See Heyd, ch. 4, "Punishment", in *Criminal Law*, pp. 259-311.) The bulk of his evidence comes from kanunnames, legal tracts, and *fetvas*, statements of how law should be imposed, while my sources are strictly from current legal practice. Moreover, what is true of the late 15th/early 16th century may not have been true in the early 17th century; Heyd's evidence, with some exceptions, is Istanbul-centered (including Bursa), and Kayseri is far from there, if that may make for some difference.

The weak point in my evaluation is the area of legal theory, not knowing exactly what legal texts were in force in 1600 (even Heyd is of limited help here because he treats *early* Ottoman criminal law; his competence after 1566 is limited. Heyd's weakness is that he can have no sense of the "tone" of a body of legal cases from a single place and time, despite the fact that he consulted several volumes of early *sicils* and frequently cites a single judicial case as evidence. Much of this paper is devoted, in part, to showing the substantial body of evidence which suggests that during the period studied the court situation in Kayseri was not so bleak as portrayed by Heyd; indeed the procedure of the court seems not to have been arbitrary but fair.

(1) Cf. H. Inalcik, "Mahkeme", *Islam Ansiklopedisi*. The 'police' "...are charged only with putting into execution the decisions of the courts. Without the judicial decision of a kadi, it is absolutely forbidden to impose fines". ("Bunlar mahkemelerin karalarini yalniz tenfiz etmekle vazifelidirler... kadi hükmü olmadan, cezâ ve cerîme almak, kat'i olarak, men'edilmiştir.")

(2) Cf. Heyd, *Criminal Law*, p. 169. "The officials who carry out the sultan's orders are called *ehl-i 'orf*, i.e. the agents of his political and executive authority."

viduals to initiate complaints, and the overwhelming majority were begun in this way. But occasionally when "public interest" or "expediency" required, the court or the police took the initiative.

The study of the "police" is extremely difficult. At the imperial palace there was a *muhzir aga* and a janissary corps of *muhzirs* which was unrelated to the judiciary. Likewise the palace had a *çukadar aga* and *çukadars*. There were janissary *su başis*, *su başis* of the sancak begi, and probably other kinds. Practically every chief officer in the Ottoman military and administrative system had a *kethuda*. (1) Most of these offices had full official titles, which make it possible to distinguish among them, but unfortunately the full titles often were not used, and besides often more than one title might apply to the same office. If that is not obstacle enough one must also remember that the organization and operation of the "police" institutions was not the same for all provinces. It is not surprising that no one has made a successful study of "police" in the Ottoman Empire.

This effort, too, is tentative. There is scant evidence of the nature of police activities in Kayseri. It has not been possible to give the office the full consideration it merits.

a. *Muhzir*

Muhzirs in Ottoman courts were charged with summoning people. The word *muhzir* is apparently derived from the Arabic *ihzar (ihdar)*, meaning to summon, to cause to be present

(1) For example, in the Kayseri *sicils* one finds mention of *kethuday-i şehir*, *kethuday-i kale*, *mir liva kethudasi*, *kethuda yeri*, *kethuda* of the *zimmis*, and there was a *kethuda* for every single village and tribe in the *kaza*. Many times only the single word *kethuda* is given for identification. For Ottoman Egypt Shaw mentions *kethuday-i şehir*, *kethuday-i vali*, *kethuday-i kul*, *kethuday-i çavuşan*, *kethuday-i gonüllüyan*, *kethuday-i tüfenkçiyan*, and *kethuday-i çerakise*. See index of Stanford J. Shaw, *The Financial and Administrative Organization and Development of Ottoman Egypt, 1517-1798*, Princeton, 1962. Uzunçarşılı mentions eleven *kethudas* only two of which have been mentioned above. I. H. Uzunçarşılı, *Osmanlı Devletinin Merkez ve Bahriye Teşkilâtı*, Ankara, 1948.

—hence *muhzir* is one who summons. (1) People who needed a *muhzir* came to court to get one. (2) The *muhzir* might go alone with orders from the court *(murasele)* to the person who was being summoned, or he might go with the plaintiff, with several "Muslims," or with both the plaintiff and a number of "Muslims." (3) The *muhzir* was not authorized to force the accused to return to court in his custody, or even in his company, so the accused could accept the summons and then ignore it, or he could even refuse it to the face of the *muhzir*. The accused might make a formal statement for the *muhzir* to bring back to the court, as the *hatib* of Battal Gazi mosque did. (4) When *muhzir* Pervane travelled all the way to Tomarza to summon people from that town for attacking an imperial officer, they declined to come. (5)

A persistent effort to determine if *muhzirs* were *şuhud ul-hal* for particular kinds of cases proved fruitless. If they were more likely to be *şuhud ul-hal* for "criminal" cases than for "civil" or "non-contested" ones, this was only a relative distinction, for no *muhzirs* were present at hearings on many criminal cases, and *muhzirs* often were present at hearings on non-criminal cases of every sort. Although *muhzirs* were not often noted in the *sicils* for having played an active role in a judicial case, one or more of them were *şuhud ul-hal* for a very large number of cases.

Occasionally *muhzirs* were sent on errands by the court. For example, a *muhzir* was sent to investigate a claim that a certain woman had been assaulted. (6) The *muhzir başi* was sent out to bring a different woman to court. (7) Another *muhzir başi* was sent to deliver a warning to the sancak begi. (8) A *muhzir* might be sent out to retrieve stolen property, or even kidnapped

(1) An usher or bailiff of kadi's courts, who sometimes administered *ta'zir*. Heyd, *Criminal Law*, pp. 236f, 272n.
(2) E.g. #20 65-1.
(3) E.g. Karaman #1 10-2.
(4) #15 46-5, #15 159-2.
(5) #15 38-7.
(6) #12 4-14.
(7) #12 212-16.
(8) #19 62-2.

women. (1) Sometimes the person summoned by the *muhzir* refused to come to the court: Mikail once complained to the court that he had been struck and cursed by a person he had summoned, while Ali once complained that a woman had called him "kizil baş." (2)

Muhzirs were appointed at the court. Maksud bn Ramazan was appointed there in the presence of Mevlana Davud efendi and Mevlana Abdul-Kerim efendi, who were *şuhud ul-hal.* (3) *Muhzirs* were also appointed to certain *nahiyes* outside the city. In 1022, Kasim and Mikail were appointed to Sahra nahiye, Huseyn and Mustafa to Kostere, Mehmed and Abdul-Gaffar to Islamlu. (4) In 1035, *muhzir başi* Kasim bn Menteş was dismissed from his office as *muhzir başi* for some unspecified perfidious deed *(hiyanet)*—(though he continued on as a *muhzir* —and Mikail bn Şeref was made *muhzir başi* in his place. (5) *Muhzir* Veli accused court *katib* Husam efendi of striking him. (6)

Muhzirs in Kayseri served for long periods of time. *Muhzir* Kasim bn Menteş, *muhzir* Mehmed, and *muhzir* Mikail were identified as such in all but one of the thirteen Kayseri *sicils* covering the period 1605-1626. (The one *sicil* in which their names do not occur is a very short one.) The names Huseyn and Hudavirdi occurred in ten of the thirteen *sicils* and the names Abdi bn Idris and Ismail in nine of them. Ali and Mustafa were mentioned in seven of the *sicils*, and seven other *muhzirs* were mentioned in three or more.

Hamze, Sefer, Abdi, and Kasim were the only *muhzir başis* mentioned for the whole twenty year period, though each held the office more than once. In effect, six *muhzirs* (Kasim, Mehmed, Mikail, Huseyn, Hudavirdi, and Ismail—but not Abdi) bridged the whole period, a sizeable proportion of the force when one considers that the greatest number of *muhzirs* ever mentioned in a year was eighteen. The long tenure of these *muhzirs* makes

(1) #14 5-5, #20 12-2, 22-3.
(2) #25 29-6, #22 69-9.
(3) #22 67-9; cf. Konya #5, p. 41.
(4) #17 1.
(5) # 27 98-3.
(6) #13 79-5.

it very clear that they had a permanent position at the court and were not vulnerable to the favors and recriminations of kadis and sancak begis, whose turnover was very rapid. (1)

b. *Çukadar* (also *çuhadar*)

Çukadars were court attendants like *muhzirs*. (2) The Kayseri *sicils* give so little information about their performance of duties at court or about their role in law enforcement that they cannot be distinguished from *muhzirs*. They seem to have been fewer in number than the latter, however, and they were mentioned much less frequently in the *sicils*. Four *çukadars* were mentioned in 1019 and three in 1017, but in all other years the names of only one or two *çukadars* were given. The names of a few *çukadars* occurred in more than one year, but apparently people held the office only for a year or two. The name Ahmed beşe occurs in 1015, 1017, 1019, 1020, 1034; the name Yusuf beşe occurs in 1016, 1017, 1019, 1020, 1034, 1035. Ramazan beşe occurs in 1018, 1019, and 1020.

A *çukadar* was bringing a prisoner to the castle when the prisoner broke away and escaped. (3) Later that *çukadar* paid out money for the repair of the ditch *(handak)* around the castle. (4) He went to summon a *çavuş* to court for extorting tolls from a caravan, but the *çavuş* refused to come. (5) Another *çukadar* was sent to pay a debt owed the sancak begi. (6)

A *çukadar* accompanied a *naib* and a *boluk başi* to answer a *kethuda*'s call for help in making an arrest. (7) One was sent with a *muhzir* to recover alledgedly stolen property claimed by

(1) Lists of *muhzirs* unfortunately do not appear in the *sicils*. However, their names are identified by *muhzir*, *el-muhzir*, or *muhzir başi* when they appear at court as *şuhud ul-hal*.

(2) Uzunçarşılı numbers them among "servants" of the *şeyh ul-Islam* and the Istanbul kadi. *İlmiye Teşkilâtı*, pp. 136, 139, 196.

(3) #12 86-5.

(4) #12 98-12.

(5) #12 165-20.

(6) #12 204-16.

(7) #13 26-1.

a plaintiff. (1) *Çukadar* Ebu Bekr beşe was sent to summon the sancak begi to court. (2) Another *çukadar* was sent to summon to court a man and his servant in regard to an assault claim against the servant. (3) A *çukadar* and the sancak begi's man brought a stolen horse to court. (4) A *çukadar* was ordered to tabulate a debt. (5) A *çukadar* was witness to conditions *(şarl)* agreed upon for a marriage. (6)

c. *Muhtesib*

The *muhtesib* of Islamic tradition was a person of immense power, a "police chief," patroller of bazaars, and guardian of public morals. According to Mawardi, the eleventh century jurist of Egypt, the *muhtesib* has a jurisdiction that exceeds that of the kadi in that the *muhtesib* can investigate suspicious matters even when no complaint has been lodged and in that he has the power to suppress wrong *(ta'zir)*; but the jurisdiction of the *muhtesib* falls short of that of the kadi in that the *muhtesib* cannot consider any matter that does not involve a wrongful act and his jurisdiction is restricted to matters where there has been a confession or admission. (7)

(1) #14 5-5.
(2) #19 63-1.
(3) #23 12-8.
(4) #27 32-4.
(5) #27 37-1.
(6) #27 102-2.

(7) H. F. Amedroz, "The Hisba Jurisdiction of the Ahkam Sultaniyya of Mawardi," *JRAS* 48 (1916) 79. "If they be denied or disputed he cannot act, for only a judge is empowered to hear evidence and to administer the oath; this the Muhtasib cannot do, whether for the purpose of establishing a claim or displacing a liability." Cf. W. Behrnauer, "Mémoire sur les institutions de police chez les Arabes," *JA* 15 (1860) 461-508; 16 (1860) 118-154, 347-392; 17 (1861) 5-76. Cf. M. Gaudefroy-Demombynes, "Un magistrat: le mohtesib," *Journal des Savants* (1947) 33-40; B. Foster, "Agoranomos and Muhtasib," *JESHO* 13 (1970) 128-144. For *muhtesib*, see Heyd, *Criminal Law*, pp. 229-234. He remarks that, unlike in early Islam, Ottoman *muhtesibs* were not usually members of the ulema; they dealt with "minor offenses" which were "not worthy of the cadi's attention." Although it was not his duty to "pry" or to "ferret out misdeeds", the *muhtesib* retained the traditional twin functions of guarding the bazaar and public morality. Cf. H. Gerber, "Guilds in 17th c. Anatolian Bursa", *Journal of Asian and African*

The office of the *muhtesib* in early seventeenth century Kayseri was far less prominent than might be expected. The *muhtesib* was mentioned very infrequently in the *sicils* and then almost exclusively in regard to patrolling the bazaars. The *muhtesib*'s name occasionally appeared next to a listing of the official fixed prices *(narh)*. Sometimes he was noted as having been present at the hearing of a case involving violators of the *narh* or users of dishonest weights and measures (in the same way that someone from the sancak begi's office might have attended the hearing of a criminal case). Sometimes such a violation was recorded "at the request of the *muhtesib*." (1) It is not possible to determine whether all such violations were recorded in the *sicil*, but the number registered there is so small that *if* it represents all the offenders, either the people of the bazaar were very honest or the *muhtesibs* lackadaisical. (2)

The *muhtesibs* of Kayseri fulfilled only the duties of the marketplace, not those of morality. They had nothing to do with criminal investigations of any sort—such powers belonged to the offices of the kadi and of the sancak begi. (3) *Ta'zir* was not used against people who neglected to attend prayer, violated the fast of Ramazan, or drank wine. The *muhtesib* did not bring people to court for matters outside the scope of the bazaar. Any prosecutions he requested involved unfair weights and measures or violations of *narh*. Schacht knew that in the

Studies 11 (1976) 82f. Gibb and Bowen assert that the *muhtesib* shared with the kadi a position of preeminence among the ulema of the city. This difference with Heyd may result from their drawing information from later sources or different territories. They also observe that the *muhtesib* in the Ottoman period had certain tax collecting functions, including the collecting of the "*baci pazar* or 'market due'". *Islamic Society and the West*, v. I, pt. 2, London, 1965, pp. 80, 7ff.

Schacht gives two classes of duties, those connected with the market place ("enforcing traffic, building, sanitary, and trading regulations") ahd those of 'encouraging good and discouraging evil.' *Introduction...*, pp. 51f, 190, 207.

(1) Cf. #19 3-4, 3-5; #22 3-5, 68-10, 69-1, 71-8, 73-4, 73-12; #23 2-1, 13-6, 14-11, 28-1, 29-13, 38-9, 49-10, 51-6, 69-3.

(2) Evliya Celebi did remark that the weights and measures of Kayseri were very honest. *Seyahatname*, v. 3, p. 181. Istanbul, 1314.

(3) A drunken man struck another man and then the *muhtesib* in the shop *(dukkan)* of the *bazar başi*; the *muhtesib* brought him to court for this. #12 151-6. In doing so he was fulfilling his duty of keeping order in the bazaar.

Ottoman legal system the kadi and the sancak begi took over most of the functions of the *muhtesib*, though he cites no sources: "The supervision of public morals was the responsibility of the *kadis*; numerous instructions concerning these matters were issued to them, and they had them carried out by the *subashi* or chief of police, while the *muhtasib* supervised trade and industry on their behalf." (1)

Muhtesibs in Kayseri do not seem to have collected the tax revenues that they collected elsewhere in the empire, the *bac-i bazar* and the *ihtisab*. The *bac-i bazar* of Kayseri was collected by a special officer of the bazaar, the *bazar başi*, who in turn paid it to agents of the Kayseri sancak begi. (2) Sometimes the sancak begi had a *vekil*, a *mutesellim*, or simply one of his men *(adam)* collect the *bac-i bazar* due him and other times the sancak begi sold the revenues of the *bac-i bazar* as a tax-farm *(iltizam)*. (3) The revenues of the *ihtisab*, which in Ottoman Egypt were an *iltizam* for the *muhtesib*, were paid in Kayseri to the sancak begi, and he either had his agents collect the revenues due him or sold them as an *iltizam*. (4)

In Kayseri the *bac-i bazar* and the *ihtisab* were frequently collected together or at the same time. Sometimes their payment was noted in successive entries in a *sicil*, and frequently the payment of the two taxes was noted in a single entry. (5)

The revenues from *ihtisab* and *bac-i bazar* were paid for the service of regulating trade. If these revenues went to the sancak begi in Kayseri, then presumably he (his office) was

(1) Schacht, *Introduction...*, p. 92. Gaudefroy-Demombynes regards the original concept of the *muhtesib* as a holdover of the *agoranome* (chief of the market place) in Hellenistic cities, taken over when Muslims conquered Syria from Byzantium, p. 36. Mandaville observed only the market function in Mamluk Damascus, p. 85.

(2) The Kayseri *bazar başi* was mentioned frequently and the office seems to have been an important one. It would be useful to be able to distinguish his position at the bazaar from that of the *muhtesib*.

(3) E.g., #15 222-4, 258-4, 262-2, 276-2.

(4) E.g., #15 259-3, 262-3, 276-2. Cf. Shaw, *Ottoman Egypt*, p. 118f.

(5) Cf. #15 276-2, where 3,000 *akçe bac-i bazar* and 2,000 *akçe ihtisab* are mentioned. It should be noted, accordingly, that the *bac-i bazar* in Kayseri was not part of the *ihtisab* as it was in Ottoman Egypt. See Shaw, *Ottoman Egypt*, p. 135.

providing some of the services traditionally provided by the *muhtesib* in Islamic society generally and particularly in Ottoman Egypt.

"In Medieval Islam, the *Muhtesib* had wide powers of police and regulation over all the urban markets and trades. However, in Ottoman Egypt his duties were limited principally to the enforcement of standards of weights, measures, and prices in the comestible markets of Cairo. Any other attributes he may have had were in fact only honorific remnants of former times; and even for the powers which he did retain, he had to depend on the urban police led by the *Ağa* of the Janissaries to enforce his authority, and he had to pay them a portion of his revenues in order to preserve his position." (1) The description of Ottoman Egypt fits Kayseri with the following qualification: the *muhtesib* of Kayseri probably looked to the kadi rather than to "urban police" to enforce his authority. At least the *muhtesib* brought "criminals" of the market place to court, where his complaints or their confessions were recorded in the *sicil*.

The *muhtesibs* of Kayseri can in no way be construed to have been near equals to the kadis or even to have been among the most important ulema. *Muhtesibs* there were never identified with any exalted honorifics and any tax collecting functions they might have had were minor. Nor do they seem to have been involved in business or legal activities as so many ulema were. (2)

d. The Kayseri *sancak begi* (usually called *mir liva'-i Kaysariyye*)

The role of the sancak begi was primarily military. He mustered the military forces of Kayseri sancak (mostly spahis) and led them on campaigns. Most Kayseri sancak begis were outsiders who had no roots in the community but received their

(1) Shaw, *Ottoman Egypt*, p. 118.

(2) Shaw, *Ottoman Egypt*, p. 119, observes that the *muhtesib's* position was "the least profitable of the great urban *Muqataat* of Cairo" and so the *muhtesib* was never one of the principal officers of the *çavuş* corps (from whom *muhtesibs* in Cairo were drawn).

appointments as patronage or in recognition of their military abilities. Therefore they could not hope for any personal loyalty from the local soldiery. At some other places in the empire prominent local families may have controlled the office, but in Kayseri in the first quarter of the seventeenth century the sancak begi was an outsider who served a short term and had no base for local patronage to enhance his position in the community. His salary came from the revenues of the city and province of Kayseri, but since he was usually absent for war, other business, or pleasure, one of his agents collected the salary for him. When the sancak begi was absent, he left in his place a plenipotentiary (called *mir liva kaym makami*, or *Kaysariyye sancak begi mutesellimi*, or *Kaysariyye sancak begi kethudasi*) who carried out local duties with the same authority as the sancak begi himself. It seems that the personal presence of the sancak begi was required only on campaigns.

Local taxes and levies destined for the military often were paid to the sancak begi. He himself did not collect them, nor did his lieutenants. The collection of such revenues was overseen by the kadi, who formally turned over what was collected to the sancak begi, who in turn delivered these revenues to the imperial army.

Three main revenues made up the salary of the sancak begi: the market taxes, *bac-i bazar* and *ihtisab resmi*, and lost, unclaimed, and ownerless property *(mal-i gaib)*. An ownerless horse, any property found but not claimed or recovered from bandits but not claimed, and the estate of anyone who died without heirs accrued to the sancak begi, though of course when legitimate claimants appeared the court saw to it that their rights were upheld. The *ihtisab* and *bac-i bazar* were paid monthly or bi-monthly by the bazaar on a *per diem* basis, so when a sancak begi was dismissed, he was paid *bac-i bazar* and *ihtisab* right to the day of his dismissal but not for one day longer. Here too the sancak begi had no authority to collect taxes. He merely received a lump sum regularly from the *bazar başi*.

The jurisdiction of the sancak begi in local law enforcement cannot be precisely defined. He, his plenipotentiary, and his

su başis could investigate criminal matters and even make arrests on their own initiative. It must be noted, however, that incidents occurred where even the summons of a sancak begi or his man was refused and the "police" turned again to the court rather than resorting to coercive force. (1) When they apprehended a suspect on their own authority, they were bound to bring the accused to court immediately for a hearing. A *kethuda* of sancak begi Mehmed Paşa, for example, took into custody and brought to court some armed men whom he had seen wandering the streets at night. (2) Mehmed Paşa himself brought a man named Idris to court and accused him of being a *celali*. (3) Of course the final judgment belonged to the kadi and not to the military officials.

The sancak begi's office was represented in all the criminal investigations undertaken by the court, as were the kadi and the "Muslims." (4) The order of precedence in the naming of the investigatory committees was always *naib* (or kadi), sancak begi's man, and "Muslims." The sancak begi was represented only in criminal investigations, however. When the court was asked to investigate an inheritance dispute, to assess an estate, or to settle a land boundary dispute, the committee was comprised only of *naib* and "Muslims." This procedure ought to be borne in mind by those who assert that Islamic law does not distinguish between civil and criminal law.

A relatively small number of criminal cases were noted in the *sicil* as having been heard "in the presence of" the sancak begi or his representative. Unfortunately nothing is revealed about the significance of his presence; the notation admits nothing more than the merest presence of the sancak begi. (5)

(1) E.g. #15 5-6; #25 17-4. For claims brought to court by sancak begis, see #11 51-287, 53-293, 57-315; #12 14-9, 26-8; #13 13-1. Heyd mentions eleven officers whom he had noted bringing criminal suits. *Criminal Law*, p. 242.

(2) #13 13-1.

(3) #12 14-9.

(4) Cf. #12 17-2, 68-2; #14 12-1; #25 91-3, 104-2.

(5) Cf. #12 3-8; #17 71-2,3; #25 83-3. Heyd describes the procedure of investigation by a court clerk sent to investigate, sometimes "accompanied by several people who were to act as witnesses." If a *su başi* went along, "most probably" he "wanted to collect the fine due him..." *Criminal Law*, p. 246f.

Since all legal disputes were settled at the court by the kadi, the position in local government of the sancak begi was not a very strong one. He and his men were subject to the jurisdiction of the court like all other people. Hasan made a formal accusation against the sancak begi's man Hamze for stabbing him with a knife. (1) Sancak begi Ebu Bekr beg had collected certain revenues due to the Karaman beglerbegi and then had gone off to campaign and so *muhzir* Abdi was sent to Ebu Bekr to recover the money and warn him against again taking money from reaya contrary to *şer'*. (2) When a sancak begi's man tried to collect blood money *('uşr-i diyet)* unjustly from some villagers, they secured a *fetva* that the *ehl-i 'orf* could not do so in such a case and the court accepted the *fetva*. (3)

A representative of the Kayseri sancak begi had to take to court the latter's claim that a certain zimmi was a reaya of one of his villages but had left it for the city. The sancak begi had no coercive power. Although he claimed the zimmi as his reaya and wanted him returned to the village, the kadi in fact accepted evidence to the contrary produced by the zimmi. (4) The *kapuci başi* of the Maraş beglerbegi had to seek the support of the Kayseri court for his claim that the people of Tomarza village had attacked him and driven him out of their village when he sought lodging there. (5) Omer beg bn Abdullah

(1) #12 193-5.

(2) #19 62-2. Ebu Bekr refused to return the money and continued on. What came of this is not known.

(3) #27 91-2, 276-4.

(4) #17 35-4. Kayseri sancak begi Osman beg is represented by Mustafa çelebi bn Mehmed aga, who has zimmi Şirin veled Bahşi of Erkilat village, which is *havass* of the sancak begi, brought to court: Mustafa çelebi claims that Şirin migrated to the city from that village and so should be returned there according to *şer'*. However Şirin has a *huccet* that he has lived in the city for eighteen years, and Ahmed beg bn Abdullah and Veli bn Ali confirm the *huccet*, saying Şirin came to the city eighteen years ago.

(5) Hasan beg, *kapuci başi* of Maraş beglerbegi Mehmed paşa, came to court: While coming from Develu, Alti Barmak, a zimmi of Tomarza, invited me to his home. When we entered, the village did not accept us but blocked our way and called me a *celali*. They shot one of my horses with an arrow. Let the *muhzir* summon them to court with a *mursale* (letter from the court). *Muhzir* Pervane was sent to summon them to court. They refused to come. #15 38-7; cf. #15 39-7. Hasan beg, *kapuci başi* of Maraş beglerbegi Mehmed paşa, acknowled-

charged before Kayseri sancak begi Muneccim Mehmed paşa that the *paşa* still owed him 150 *guruş* of 200 *guruş* he had given him earlier. (1) Kayseri sancak begi Hamze beg acknowledged through a *vekil* that he owed Davud bn Mansur 200 *guruş* from the price of goods; he assigned that amount from the revenues of Talas village to his creditor. (2) Kayseri sancak begi Seyyid Mehmed beg had to defend himself against charges laid by a representative of the *defterdar* of the army, who asserted that the sancak begi had wrongfully kept as personal property certain grain he had captured from *celali*. (3) The Kayseri sancak begi brought before the kadi a claim against the *dizdar* (castle warden) of the city castle for refusing to provide him with ten men from the castle garrison when the city was under siege by *celalis*. (4).

The prolonged absences of sancak begis from the city made it all the more difficult for them to rival the kadi for power. (5)

A firman recorded in one *sicil* notes that the kadi and the

ged in the presence of the people of Tomarza village: They did not find quarters for me. They blocked my way and killed my horse with an arrow. However, a compromise *(sulh)* has been negotiated for 50 *guruş* cash and some cloth *(dulbend)*. This has been paid in full and I have no further claims against anyone.

(1) #15 139-1. Omer beg bn Abdullah charged *(takrir-i kelam)* before emir ul-umera Muneccim Mehmed paşa: I gave him 200 *guruş*, of which he still owes me 150 *guruş*. Former *kethuda yeri* Ali beg bn Hamdullah and Yusuf beşe bn Abdullah confirm Omer.

(2) #15 143-5. Kayseri sancak begi Hamze beg has *vekil* for the matter Davud bn Mansur who acknowledges before *kul ogli* Abdi beg: Hamze beg owes Abdi 200 *guruş* from the price of goods *(esbab bahasi)*. He gives revenues *(mahsul)* due him from Talas village for this year in payment.

(3) #11 61-337. The court found Seyyid Mehmed beg faultless here because two witnesses confirmed his claim that the grain merely replaced grain taken earlier from his grain storage *(anbar)* by *celali*.

(4) #11 51-287. Kayseri sancak begi declares *(takrir-i kelam)* before Kayseri castle *(kale) dizdar* Sadi aga: When Zul-Fikar beseiged Kayseri and it was necessary to defend the walls, we requested ten men from the castle garrison to cover undefended points, and he refused. The *dizdar aga* replied: We had no imperial order *(emr-i padişah)* to leave the castle; we cannot violate the law *(kanun)*. However, fourteen people, including spahi Ilyas, *kapuci* Abdi ogli, Huseyn su başi, and Cafer çavuş testified that the garrisons had come out of the castle in the time of earlier *dizdars*. Cf. #12 16-3.

(5) Akdağ says the frequent absence of Anatolian sancak begis in this period enhenced the power of kadis. *Büyük Celâlî Karîşîklîklarînîn Başlamasî*, Erzuzum, 1963, p. 11.

a'yans of Kayseri had petitioned that Ferhad beg should replace Muneccim Mehmed as sancak begi because Ferhad would be successful against the *celali*. The Porte accepted this advice and named Ferhad beg as sancak begi. (1)

It has generally been assumed that the provincial governors (sancak begi, beglerbegi) had a role in the hearing of cases. Uzunçarşılı, for example, says, "If a *da'va* made in the *kadiliks* which are *mevleviyet* concerns a very important matter like military transactions, murder, or retaliation, the *hüküm* (sentence) should be presented to the governor of the place. If the *hüküm* given by the kadi is confirmed after being analyzed by the governor and two men in his retinue, it should be carried out. If the *hüküm* given to the council *(meclis)* of the governor is not confirmed, the paper should be sent to the *kadi asker* in the capital." Then the *kadi asker* will bring it to the divan, where it will be considered. (2)

No such procedure occurred in any of the *sicils* read for this study. Even in Trabzon, where the *sicils* indicate that the office of the provincial governor may have been more active in court than similar officials were in Kayseri, no judicial matter was explicitly put to the governor for his consideration or approval.

In Trabzon the court *(meclis-i şer')* was honored by the presence of the beglerbegi (also called *vali)* or his deputy whenever cases arose involving members of the military class. An assault by drunken *çavuşes*, (3) a land dispute involving a spahi, (4) the purchase of land by an imperial *katib*, (5) an internal janissary matter, (6) a dispute between two janissaries over a slave girl, (7) and a janissary inheritance case (8) are

(1) #15 228-2. Ferhad beg was an important local spahi.

(2) Uzunçarşılı, *İlmiye Teşkilâtı*, p. 110. "Mevleviyeti haiz kadılıklarında yapılan dâva askerî muamelata veya katl ve kisasa taallûk edecek şekilde pek ağır ise hüküm bizzat vali ile maiyetindeki iki mutemed adamı taraflarından tetkik edildikten sonra tasdik olunursa infaz olunurdu. Eğer valinin meclisi verilen hükmü tasdik etmezse evrak devlet merkezine kazaskere yollanırdı."

(3) Trabzon #1821 36a-2.

(4) Trabzon #1821 38a-3.

(5) Trabzon #1821 44a-3.

(6) Trabzon #1821 53a-3.

(7) Trabzon #1821 25b-2.

(8) Trabzon #1821 5b-4.

typical of the cases attended by the Trabzon beglerbegi or his representative. (1) Of the hearings attended by the beglerbegi only one did not clearly involve the military class, an accusation of attempted rape. Perhaps in this instance the scribe neglected to mention that one of the parties was a member of the military class.

On the other hand, the beglerbegi did not attend the hearing of an important murder case in which no members of the military class were involved—evidence that his concern was cases involving the military. (2)

The office of the Trabzon beglerbegi seems to have been represented at hearings involving members of the military class. Presumably his purpose was to watch out for the interest of that class. It would be strange if the beglerbegi was powerless to intervene or at least to influence the court in the cases he attended, but the only evidence at hand indicates that his presence was passive. The beglerbegi did not direct the hearings, nor indeed did he contribute anything to them that can be understood from the record in the *sicil*. The evidence is insufficient to determine whether the beglerbegi had to approve the *hüküms* of the Trabzon kadi regarding these "military" matters, whether the kadi might have sent an unapproved *hüküm* to the *kadi asker* to be discussed in the *divan*, or what the balance of power between kadi and beglerbegi was in these cases.

In the Trabzon *sicils* the presence of the beglerbegi was mentioned at the beginning of the record of the case, while in the Kayseri *sicils* the presence of someone from the office of the sancak begi was noted only at the end of the entry (though prior to the listing of the *şuhud ul-hal*).

The relationship of the office of sancak begi to the court in Kayseri is unclear. Cases involving members of the military class were sometimes heard before someone from the office of the sancak begi. However, cases involving janissaries were sometimes heard rather in front of one of the janissary *bölük başis*

(1) Cf. Trabzon #1821 6b-2, 6b-4, 6b-5, 7a-1, 7a-5, 9a-4, 25a-4.
(2) Trabzon #1821 13b-2, 14a-4, 15b-1.

and cases involving spahis were sometimes heard in the presence of the *altī bölük halk kethudasī*. Many cases involving people of the military class were simply not heard before any representative of the military class. Likewise, someone from the office of the sancak begi attended some of the hearings of serious crimes, but many such hearings were conducted without any formal representative of the police being present. In no case was there any indication that anyone from the police or military class actually influenced the Kayseri court, or that *hüküms* had to be approved by any military or police official. Still, no adequate answer can be given to the questions of why such representatives were at court sometimes and what their presence meant.

Uzunçarşīlī describes a situation where the kadi shares some judicial authority with the provincial governor. The Trabzon *sicils* reveal a situation where the governor (after all a "military" governor) has a direct interest in cases involving the military and members of the military class. The Kayseri *sicils* reveal a situation where the kadi was able to handle any kind of case that arose, although a member of the police or military class sometimes sat in on certain kinds of cases. Ottoman government being what it was, it is not impossible that all three arrangements existed simultaneously.

Nevertheless, even though the duties of the sancak begis cannot be precisely delineated, it is clear that legally the balance of power in the cities and provinces lay with the kadis. As Akdağ has pointed out, the kadi had the broader sphere of operation: "The principal duties of the sancak begi did not go beyond, from the military point of view, going on campaign at the head of the timar-holding spahis; from the administrative point of view, putting into force the police matters of cities in the sancak; and protecting the tranquility of the timar lands providing soldiers (more correctly, of the revenues which do not have the right of independence). All matters outside of these two duties lay within the authority of the kadi of every judicial district." (1)

(1) "Sancak beyini başlīca vazifesi, askerî bakīmdan timarlī sipahinin başīnda sefere gitmek, idarî bakīmdan, sancaktaki şehirlerin polis işlerine yürütmek ve

e. *Su başi*

Su başis were appointees of the Kayseri sancak begi, not of the court. Whereas the *muhzir* regularly attended court but never officially initiated litigation, (1) the *su başi* sometimes initiated litigation against people he had apprehended, but he did not often attend court hearings. The *su başi*, since he remained outside the confines of the court, had much broader police functions than did the *muhzir*. He also undertook the collection of various taxes and levies when requested to do so by the sancak begi or the Porte. (2)

cebeli timar topraklarının (daha doğrusu serbestlik hakkı olmıyan dirliklerin) âşâyişini korumaktan öte geçmiyordu. Bu iki vazife dışında kalan bütün işlér, her kazanın kendi kadısı salahiyetlerine giriyordu." M. Akdağ, *Başlamasī...*, p. 7. Akdağ declares that it is not possible to determine whether the sancak begi or the kadi is superior. "Although it is clear that the beylerbeyi was considered superior to kadis, it is not possible from the procedures of that time to understand whether the sancak beyi or the kadi was superior." ("Beylerbeyinin, kadılardan üstün sayıldıklarī açik olarak belli olmakla beraber, sancakbeyi ile kadıdan hangisinin üst makam olduğunu o zamanın işlemlerinden anlamak mümkün değil.") "On the one hand, orders from the Porte are addressed first to the sancak begi and then to the kadi. On the other hand, the kadi can summon the sancak begi to court, and the sancak begi has no power over the kadi. Furthermore, when a kadi passes on to the Porte complaints of the people against a sancak begi, the Porte considers this very important, but if a sancak begi complains of a kadi, the Porte simply sends another kadi to investigate the charges." p. 8. Cf. Heyd, *Criminal Law*, p. 219ff, "Friction between cadi and governor".

(1) The only litigation initiated by Kayseri *muhzirs* was in response to an assault or personal affront borne by them in the performance of their duties.

(2) Gibb and Bowen mention two kinds of *su başis*: "For not only the *Miri* but also the feudal Subaşis were police officers, carrying out the sentences of the *Kadis* in whose districts they worked, and being generally responsible for the maintenance of law and order." V. I, pt. 1, p. 154f.

In Ottoman Cairo the janissary aga, who was in charge of maintaining order and security, used janissaries as police. "They had the right to apply summary execution, punishment, and fines for certain crimes and to levy charges on those who benefited from, or were affected by, their services." Shaw, *Ottoman Egypt*, p. 148. However, in the Kayseri *sicils* the *su başis* are never identified as janissaries; they are always associated with the office of the sancak begi. One would not expect janissaries to serve as police under sancak begis who assuredly were not janissaries, and in any case janissaries were identified as such when they came to court.

There were special janissary *su başis* sent to Kayseri by the Porte or the

One *su başi* was appointed for the city *(şehir su başi)* and one for each of the three districts *(nahiyes)* of Kayseri kaza—Islamlu, Kostere, Sahra—by the sancak begi or his plenipotentiary. Terms were short—often as little as two months; however the names of many occurred in more than one *sicil* because they held office more than once.

If lost or stolen property (a horse, for example) was recovered and its owner could be identified, a *muhzir* might take charge of it and bring it to court; but if the owner of the horse was not known, it belonged to the sancak begi, and was usually claimed for him by one of the *su başis.* (1) A *muhzir* summoned people to court only when the court directed, and then he did not use force; a *su başi* could apprehend suspected offenders on his own authority and usually he could force them to come to court. A *su başi* had the authority to act on complaints of citizens and to bring to court anyone they accused. For example, at the request of the imam and several other people of Hasbek mahalle, *şehir su başi* Mustafa aga brought to court an unmarried man and woman who were living together in that mahalle. (2)

"Criminal" cases at the court are often noted as having been heard in the presence of a *su başi*, (3) and sometimes a *su başi* would be the representative of the sancak begi's office when a

janissary aga in Istanbul as messengers and even as tax collectors, and they became involved with the janissary garrison and its *boluk başis* in Kayseri while they were there (e.g., #11 131-9, 132-9; #12 88-1; #13 42-3). However, they were never *su başis* of the sancak begi, and any "police" power they had was confined to the janissary corps.

Kramer/Kafesoğlu identify a kind of *su başi* under the command of an *alay bey* who was subject to the sancak begi and was supposed to maintain tranquility among the people of his district. ("Sü-başilar", *IA.*) However, Kayseri *su başis* were not under an *alay bey.*

The question of summary punishments is a difficult one. Heyd says: "In many cases, however, the defendant was not brought before a cadi at all but was given strokes by order of an executive officer (the Grand Vizier, the Yeniçeri Agasi or another Janissary officer, a governor, *subaşi, muhtesib, yasakçi,* etc.), often immediately after arrest and on the spot." *Criminal Law,* p. 272f; cf. 266f. Heyd says convicted criminals were handed over to *su başis* for punishment. p. 255. See also Heyd, "Djaza", EI².

(1) #11 7-39; #23 49-11, 50-9.

(2) #11 1-2.

(3) E.g. #17 7-3, 28-6, 39-4.

naib and Muslims were sent out from the court to make a criminal investigation. (1) (If the investigation was not of a "criminal" nature, the *naib* and Muslims alone could undertake the investigation.) As police officers, *su başis* were often called upon to testify as witnesses *(şehid).*

Whenever a Kayseri *su başi* was accused of having overstepped the bounds of propriety as a policeman, he was brought to court immediately and subjected to the law like any other law violator. Su başi Solak was accused of taking 100 *akçe* contrary to *şer'* from Iskender. (2) People of Anbarli village complained that a *su başi* had unlawfully collected *tekalif-i 'orfiyye* from them. (3) Ali su başi was accused of having someone else's horse. (4) Another *su başi* apparently robbed a house. (5) Kayseri su başi Abdul-Kerim snatched a prisoner from the custody of the court and escaped with him. (6) A firman of 1020 addressed to the kadi of Kayseri ordered him to put a stop to the abuses of *su başis.* (7)

The *su başis* received their authority from the sancak begi and so seem to have been able to carry out any duties incumbent on their chief. Presumably they were local notables—outsiders could not have afforded to come for such a short term, nor would they have reappeared in the office so frequently. It is noteworthy that no one in the city of Kayseri or in any *nahiye* had so much power that he could continually hold on to this office, even though it was a "natural one" for some provincial magnate (if there were such people in Kayseri sancak) to usurp. *Su başis* in Kayseri acted on orders of both kadi and sancak begi.

The Kayseri *sicils* give no indication of summary punishments administered by anyone. Although there would be no reason to record such punishments, one might expect that occasionally

(1) E.g. #14 7-7.
(2) #19 58-6.
(3) #17 106-1.
(4) #12 8-16.
(5) #12 98-14.
(6) #12 124-15.
(7) #15 248-2. The date of this particular firman was not recorded in the *sicil* but all the documents around it are dated 1020.

cases would have arisen which required reference to such practice, if it really did exist. (1)

In Kayseri the sancak begi, not the kadi, appointed *su başis* and it was to him that they were responsible. On 14 Sefer 1019 the Kayseri kadi registered in the *sicil* the receipt of three letters from Kayseri mir liva Muneccim Mehmed beg, one making Kurd Ali beg *su başi* of the city, another making Ali aga *su başi* for Sahra and Kostere *nahiyes*, and a third making Cuma aga *su başi* of Islamlu *nahiye*. (2) Previously *mir liva* Muneccim Mehmed beg had appointed Mehmed aga *su başi* of Sahra nahiye and Ibrahim aga as *su başi* of Kostere *nahiye* as of Muharrem 1019. (3)

f. *The Sancak begi's Kethuda* (or *mir liva Kethudasi*)

The sancak begi's *kethuda* was another official appointed by the Kayseri sancak begi who did some work as a "police" officer. It is not clear whether the *kethuda* was a independent officer like the *su başi* or whether he just acted in place of an absent sancak begi (as his plenipotentiary) like the *kaym makam* or *mutesellim*, i.e., it is not clear whether the office was permanent or temporary.

(1) Akdağ, who knew better than anyone else the economic and social order in Anatolia in the second half of the 16th century, and particularly the problem of the *celali* and other disorders, states flatly that there were no punishments without trials. ("Hiç bir ferd muhakemesiz cezalandīrīlamazdī.") *Başlamasī*, p. 12. He was only too aware of the need to control the *ehl-i 'orf*.

Consider this summary of a firman of 1559 to the beglerbegis of Damascus and Aleppo: "I have commanded that...your su-başis and the sanjak-begs' su-başis shall not meddle in [matters of] corporal and capital punishment and shall not enter My imperial domains on the pretext of [inflicting] corporal or capital punishment...When there are in the domains such mischief-makers [whom] it is necessary to arrest, the intendants shall arrest [them]. And those who deserve corporal or capital punishment are to be punished or executed through the cadis and intendants...". Heyd, *Ottoman Documents on Palestine, 1552-1615*, Oxford, 1960, p. 59f. (The following firman refers to the illegal torture and murder of a stranger traveling through Safad, by a *su başi*, with whom the kadi may have been in collusion, p. 60f. No one can doubt that Ottoman "police" frequently were guilty of abuses.)

(2) #13 84-3, 4, 5.

(3) #13 92-1, 2.

There was only one sancak begi's *kethuda* at a time. He seems at least to have had powers equal to the *su başis*, for this *kethuda* made arrests and claimed ownerless property for the sancak begi. (1) Some criminal cases were heard before him. (2)

g. The Power of Summons

It was obligatory according to *şer'* to accept any summons, written or oral, served by the court or by any private individual. Most people in Kayseri complied with this obligation. (3)

Citizens seem to have made summonses personally, just as they initiated their own legal complaints. When a citizen was unable or reluctant to serve a summons, or when the person privately summoned was uncooperative, the court would send an agent—*muhzir*, *çukadar*, *su başi* or *kethuda*—to summon the accused. It was proper for the summoned to return immediately to court with the server, but his word that he would come on his own later satisfied the server, who then returned to court with that news. If the person summoned refused outright, the agent returned to the court for further instructions. The court would respond by sending a more prestigious agent or group of men to serve another summons, but even if the person being summoned refused the second summons the court still would not use force. What circumstances led the kadi to authorize the use of force are never made clear, and instances of three refusals were recorded.

Delays involved in summoning may have allowed a few criminals to escape from justice, but the benefits of controlled police power and freedom from arbitrary seizure must have outweighed any disadvantages.

(1) #13 25-1, 2; #17 64-3, 56-9.

(2) #11 51-286; #15 5-6; #17 52-9.

(3) "According to the Ottoman *kanun*, the arrest of a criminal is in many cases (especially those violating private rights) the responsibility not of the 'police' authorities but of certain private individuals." Heyd, *Criminal Law*, p. 235. Some one who refused the summons of a *muhzir* in Bursa was brought to court by a janissary and subjected to corporal punishment *(tazir)*, p. 237.

The extent of forebearance the court showed before authorizing the use of force to bring someone to court probably varied from case to case and kadi to kadi. There is really no description of the whole process, only brief glimpses of parts of it. A particularly vexing question is why people from the office of the sancak begi, who were empowered to make arrests on their own initiative, sometimes consulted the court before resorting to force. The reasons behind the selective use of *muhzirs*, *çukadars*, and men of the office of the sancak begi are not at all clear.

Huseyn beg bn haci Yusuf: While I was coming along the road Salih efendi's son Seyyid Mehmed çelebi sent two servants at me in anger over the payment for a camel. I said I no longer owed him anything. When I summoned them to court they beat me with a stick on the head, hands, and private parts, threatened me with a knife, cursed my mouth and wife, called me a panderer, and threatened to kill me. Let me be examined and record this in the *sicil.* He is examined and his wounds are recorded. (1)

Mustafa çelebi bn haci Musa had nineteen zimmis of Erkilat village brought to court for attacking him and his servant *(hidmetkar)* and trying to kill them. A court order *(murasele)*, a letter from the sancak begi *(mir liva)*, and a man were sent to the people. They were summoned to court three times, but they did not come. They did not obey the *şer'*. This was registered in the presence of Ali beg, *kethuda* of the *mir liva* of Kayseri. (2)

Mahmud: Kara Ali, servant *(hidmetkar)* of Mehmed çavus bn Hasan çavuş, took ½ *guruş* and 20 *akçe* from people when the caravan left the city. I said, do not do that, and he struck me. When çukadar Yusuf beşe summoned him to court, he did not come. (3)

Mehmed bn haci (name illegible) made a claim *(da'va)* in the presence of Abdul-Vehhab of Ulu Berengoz village: I went to him with letters from the court *(murasele)*. When I wanted this Abdul-Vehhab to come to court, he refused, contrary to *şer'*. Then I went with Mustafa from the *mir liva* but he still would not come. Let this be noted. Mustafa confirms this. (4)

Kapuciler zabiti haci Yusuf said: I brought letters from the court *(murasele)* twice to Suleyman but I was not able to apprehend him. That was not in accordance with the *şer'*. (5)

(1) #13 36-1; 22 Zil-hicce 1018.
(2) #15 5-6; 13 Rebi I 1019.
(3) #12 165-20; 15 Zil-kade 1017.
(4) #15 18-3; selh Rebi II 1019.
(5) #19 11-12; 23 Receb 1025.

Mehmed: When I had letters from the court *(murasele)* sent to Yusuf, he did not look at them. Confirmed by two witnesses. (1)

Mustafa beg bn Sefer efendi, man of Memi beg, *mutesellim* of Zeyn ul-Abidin paşa, who now holds Kayseri sancak as an *arpalik*: A few people of Agca Kaya village wounded Abdul Kerim beg's man Mehmed and he has complained. When I went to the village, the people did not help me. I was struck on the hand with a sword and four of my fingers were injured. They robbed me of the following possessions [enumerated in the text]. I want this to be investigated and recorded. Indeed, he is found to be wounded as he claimed. (2)

Muhzir Mikail bn Şeref sets forth a claim *(takrir-i kelam)* in the presence of Abdi beşe bn Abdi: When I went as *muhzir* from the court to him he struck me and cursed my mouth and wife. He should be subjected to the *şer'*. Two witnesses confirm the *muhzir*. (3)

Himmet of Egerce village: Suleyman's son made a sexual attack *(fi'l-i şeni')* on my young brother Veli. Himmet made a complaint and several times a man was sent summoning them to court. It was registered that Suleyman and his son fled and did not come to court. (4)

Ummi hatun, wife of Veled of Zincir dere village: When Hoca beg of our village pulled hold of me and struck me, I came to *şer'* and had the zimmi summoned to court through official letters *(murasele)* but he fled. He did not obey the *şer'*. Let his disappearance be recorded. (5)

Abdul-Fettah bn Habil beg of *ebna-i sipahiyan* of Cirlavuk village, who was wounded on 22 Receb, came to court and set forth a claim *(takrir-i kelam)*: Ahmed bn Ali beg of the *kul ogli* of the village struck me with a knife and wounded me. Let the wound be examined and let haci Huseyn beg from the *kethuda yeri* be sent with letters from the court *(murasele)* to bring Ahmed here. Abdul-Fettah makes a formal claim *(da'va)*. Indeed he is found to have been wounded as he said. Ahmed fled when the man from the *kethuda yeri* came. Then men were sent to summon his brothers Emrullah and Muslih beşe, but they too fled. Let their reputation *(keyfiyyet ul-hal)* be examined. Several people say Ahmed and his brothers are thieves, bandits and badly behaved people. This is recorded. (6)

(1) #22 18-8; 20 Zil-kade 1030.
(2) #25 17-4; 17 Sefer 1034.
(3) #25 29-6; 6 Rebi I 1034.
(4) #12 66-10; 21 Muharrem 1016.
(5) #25 89-2; 20 Cumadi II 1034.
(6) #27 7-3; 21 Receb 1035. See also some of the cases cited under "*muhzir*".

The evidence of the *sicils* suggests that, in spite of the occasional difficulties in summoning Kayseri people to court, people whose presence the court required did in fact go there. Such compliance is yet another reflections of the prestige and authority of the Ottoman court in Kayseri.

(to be continued)

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(Urbana, Illinois)

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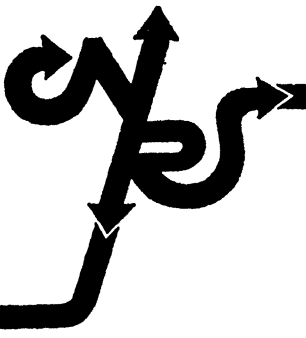

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